

**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, MARCH 2, 2015

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, March 2, 2015 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1.0 Call to Order

2.0 Invocation

- Led by Pastor Kevin Pieper, Salem Lutheran Church

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in*

accordance with law.]

5.0 Presentations:

- Administer Oath of Office for Lance Wilson, new Assistant Fire Marshall

6.0 Reports and Announcements

- March 14, 2015 – **2nd Saturday at the Depot**
- March 21, 2015 – ***Tomball Honky Tonk Music Festival*** and ***"Texas Two-Step" Washers Tournament***
- March 27-29, 2015 – **German Heritage Festival at Depot Plaza**
- April 7 and 8, 2015 – **Shattered Lives Event** – Concordia Lutheran High School
- April 11, 2015 – ***6th Annual 5K Bunny Run and 1 Mile Kids Walk***
- April 11, 2015 – **2nd Saturday at the Depot**
- April 12, 2015 – ***"Stroll the Toll"*** – 2:00 p.m. to 4:00 p.m.
- April 19, 2015 – ***"2015 Ride 2 Recovery Texas Challenge" Welcome and Reception*** – 9:30 a.m.-11:00 a.m.
- April 20-24, 2015 – **Annual Spring Clean-Up and Chipping Week**
- April 25, 2015 – **Tomball Consolidated Recycling Day** – Lone Star College-Tomball Campus, 30555 Tomball Parkway, South Entrance – 10:00 a.m.-2:00 p.m.
- April 25, 2015 – **Tomball Rotary Annual Fish Fry** at the Depot
- April 27-May 1 and May 4-5, 2015 – Early Voting for May 9, 2015 General City Election
- May 2 and 3, 2015 – ***Rails and Tails Mudbug Festival***, with ***"Roux Run"*** at **Depot Downs** on Sunday, May 3
- May 9, 2015 – General City Election, City Hall – 7:00 a.m.-7:00 p.m.
- May 9, 2015 – **2nd Saturday at the Depot**
- May 17, 2015 – **Lions Club Car Show** at the Depot
- May 23, 2015 – ***3rd Annual Memorial Day Weekend Chili Challenge***
- ***Walk Tomball!*** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken

7.0 Approve the Minutes of the February 16, 2015 Regular City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2015-03, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by changing the Zoning District classification of approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, within the City of Tomball, Harris County, Texas, from the Single-Family Residential-6 District to the Commercial District; Said property being generally located at the southwest corner of Lizzie Lane and South Persimmon Street; Providing for the amendment of the Official Zoning Map of the City; Providing for Severability;

Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

- 8.2 Adopt, on Second Reading, Ordinance 2015-04, an Ordinance of the City of Tomball, Texas Waiving the Assessment and Collection of Impact Fees for Water and Wastewater Utilities for the Development of Commercial Properties within the Old Town Area as defined in the Tomball Comprehensive Plan and including the Properties located West of the BNSF Railroad, South of Fannin Street, East of South Elm Street, and North of Florence Street, Starting at the DSP Boundary in the Southeast corner at the BNSF Railroad and Florence Street Westerly along Florence Street to South Pine Street, Northerly along South Pine Street to Percival Street, Westerly along Percival Street to School Street, Northerly along School Street to Main Street, Westerly along Main Street to Baker Street, Northerly along Baker Street to Hicks Street, Easterly along Hicks Street to North Magnolia Street, Northerly along North Magnolia Street to Unimproved Right-of-Way North of Hicks and Epps Streets, Easterly along Unimproved Right-of-Way North of Hicks and Epps Streets to North Cherry Street, Southerly along North Cherry Street to Epps Street, Easterly along Epps Street to North Elm Street, Southerly along North Elm Street to Main Street, Main Street Southerly along South Elm Street to Unimproved Fannin Street, Easterly along Unimproved Fannin Street to Right-of-Way Adjacent to BNSF Railroad, Southerly along Right-of-Way adjacent to BNSF Railroad to Florence Street until March 2, 2017; and Providing for Severability

9.0 New Business:

- 9.1 Approve Request by Tomball United Methodist Church for City Co-sponsorship and In-Kind Support for a Free Community Easter Egg Hunt at the Tomball Depot on Saturday, April 4, 2015
- 9.2 Conduct Public Hearing for Public Improvement District (PID) Number Five, Yaupon Trails
- 9.3 Appoint/Reappoint City of Tomball Representative to the 249 Partnership Board of Directors
- 9.4 Consideration and possible action to approve all of the following documents related to the Tomball Business and Technology Park, a Project of the Tomball Economic Development Corporation, and all actions necessary to give them effect, including filing Certificate of Formation with the Texas Secretary of State and filing Declaration of Covenants in the real property records:
- Certificate of Formation of Tomball B&TP Property Owners Association, Inc.
 - Bylaws of the Tomball B&TP Property Owners Association, Inc.
 - Declaration of Covenants, Restrictions, and Conditions for the Tomball Business and Technology Park

- 9.5 Consideration and Possible Action to Approve, as a Project of the Corporation, an Agreement with Dynamed Clinical Research to make Direct Incentives To, or Expenditures For, the Creation or Retention of Primary Jobs associated with the Relocation and Development of Its Corporate Headquarters to be Located at 13406 Medical Complex Drive, Tomball, TX. The Estimated Amount of Expenditures for such Project is \$15,852.
- 9.6 Approve Request from St. Anne Catholic Community to Install a Changeable Electronic Variable Message Sign (CEVMS) Within the Footprint of Their Existing Sign at 1111 South Cherry Street.
- 9.7 Approve **LARUE's PLACE**: Being a subdivision of 0.16 acre of land situated in the W. Hurd Survey, Abstract Number 371, Harris County, Texas and a replat of Lots 43 and 44, in Block 69, of the City of Tomball, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County.
- 9.8 Approve Fire Department Request to Apply for a new FEMA SAFER Grant and Authorize the Mayor to Execute the Required Support Letter to be Included in the Application Package
- 9.9 Digital Billboard Presentation by Clear Channel Outdoor, with Council Discussion and Possible Action regarding Changeable Electronic Variable Message Signs (CEVMS) and Proposed Amendments to the Code of Ordinances
- 9.10 Discussion regarding Licensing Requirements for Mobile Vendors
- 9.11 The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):
- Sec. 551.071 – Private Consultation with Attorney in Closed Meeting regarding a Matter that the Duty of the Attorney Requires be Held in Closed Session

10.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 26th day of February 2015 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer_____

Doris Speer

City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

- Led by Pastor Kevin Pieper, Salem Lutheran Church

Background:

Origination:

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

- Led by Members of the Tomball High School Student Council

Background:

Origination:

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

- Administer Oath of Office for Lance Wilson, new Assistant Fire Marshall

Background:

Origination:

Randy Parr, Fire Chief

Recommendation:

N/A

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

- March 14, 2015 – **2nd Saturday at the Depot**
- March 21, 2015 – **Tomball Honky Tonk Music Festival** and **"Texas Two-Step" Washers Tournament**
- March 27-29, 2015 – **German Heritage Festival at Depot Plaza**
- April 7 and 8, 2015 – **Shattered Lives Event** – Concordia Lutheran High School
- April 11, 2015 – **6th Annual 5K Bunny Run and 1 Mile Kids Walk**
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- April 12, 2015 – **"Stroll the Toll"** – 2:00 p.m. to 4:00 p.m.
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- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken

Background:

Origination:

Various

Recommendation:

N/A

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER

☐ YES ☐ NO	☐ 1 ST ☐ 2 ND
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ATTACHMENTS:

Tomball Honky Tonk Music Festival

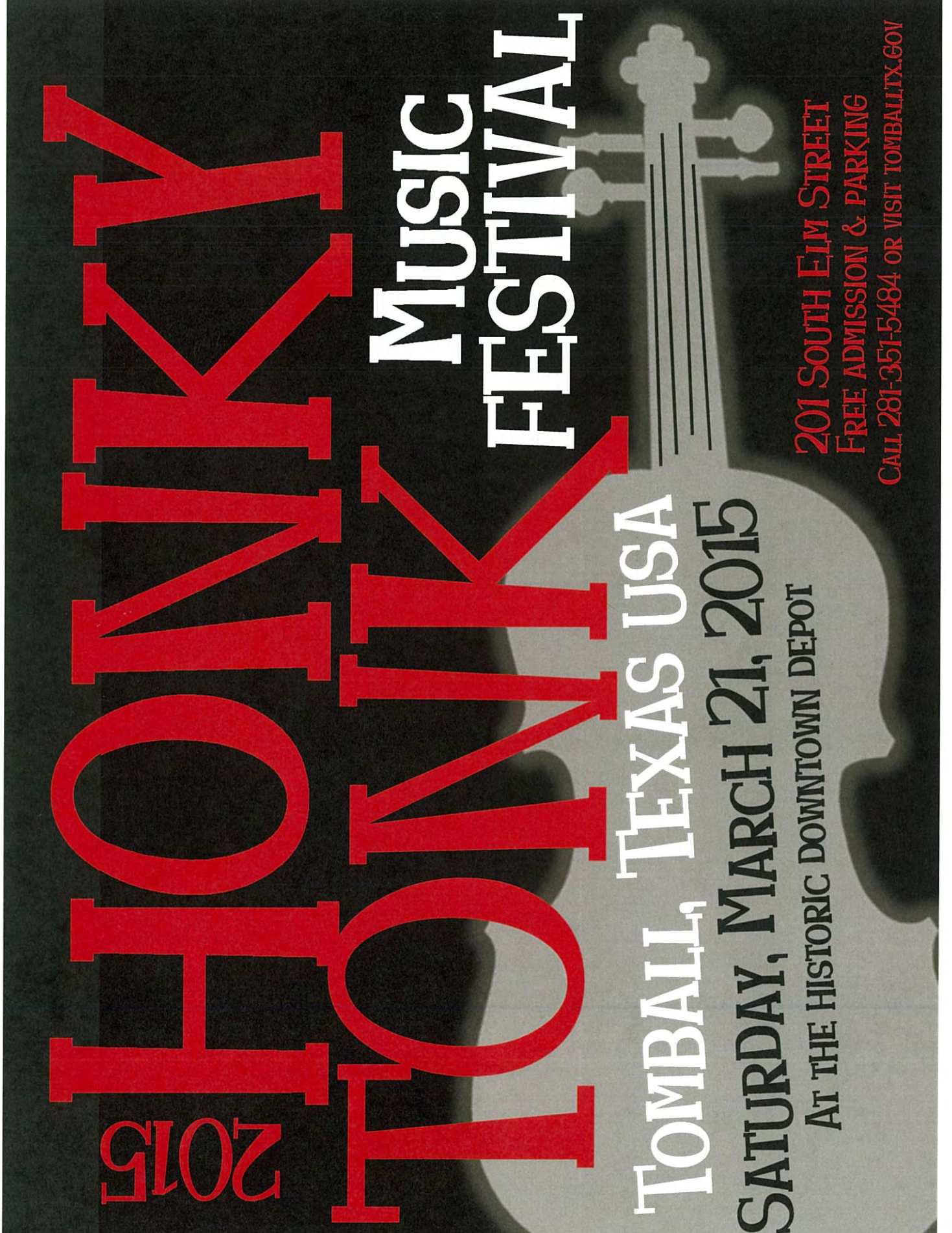
Tomball Honky Tonk Music Festival - "Texas Two-Step" Washers Tournament

6th Annual 5K Bunny Run and 1 Mile Kids Walk

"Stroll the Toll"

Annual Spring Clean-Up and Chipping Week

Tomball Consolidated Recycling Day



2015 HOVK

MUSIC FESTIVAL

TOMBALL, TEXAS USA

SATURDAY, MARCH 21, 2015

AT THE HISTORIC DOWNTOWN DEPOT

201 SOUTH ELM STREET
FREE ADMISSION & PARKING

CALL 281-351-5484 OR VISIT TOMBALLTX.GOV

THE "TOMBALL TWO-STEP" WASHERS TOURNAMENT

SATURDAY, MARCH 21, 2015 AT THE DOWNTOWN DEPOT
A PART OF THE ANNUAL TOMBALL HONKY TONK MUSIC FESTIVAL



PRESENTED BY

CUSTOM
WASHER
BOARDS

- **\$500 IN TOTAL CASH PRIZES**
- SINGLE ELIMINATION
- THREE-HOLE WASHER BOARD
- CHECK-IN AND REGISTER AT NOON
- TOSSING BEGINS AT 1 PM

THE HISTORIC DOWNTOWN DEPOT PLAZA IS AT 201 SOUTH ELM STREET, TOMBALL, TEXAS 77375
CALL 281-351-5484 OR VISIT TOMBALLTX.GOV FOR DETAILS. "LIKE" US ON FACEBOOK AT "TOMBALL TEXAN FOR FUN"



City of Tomball Bunny Run

Saturday, April 11, 2015

8:00 A.M. – 5K Run/Walk

9:00A.M. – 1Mile Run/Walk

Historic Tomball Depot

281-351-5484

Location

The Historic Tomball Train Depot Plaza located at 201 S. Elm St.

About This Event

The Bunny Run 5K and Kid's 1 Mile are the sixth in a series of Fun Runs to bring families, friends and visitors together to see why Tomball is Texan for Fun! ®

The Course

USATF-certified 5K course. flat, major tree-lined streets. No wheels (except wheelchairs) & no pets, please! Baby joggers and carriages are ok for 1 MILE WALK ONLY. The 5K race will be professionally managed and utilize timing shoe chips.

Awards

Prizes will be awarded to the top three finishers in each age category for the 5K Run. All kids (10 and under) participating in the 1 mile run/walk will receive a special keepsake. Special "Blinged-out Bunny Ears" contest with prizes so dress it up runners!

Packet Pick-up

April 9th and 10th from 5:00 PM – 7:00 PM at the City "Events" offices - 105 S. Cherry
Race Day Pick-up & Registration: 7:00 AM – 7:30 AM at the Depot (No t-shirt guarantee)

Registration

Register online at www.racesonline.com

Register in person at Tomball City Hall—401 Market Street, Tomball, TX

To mail or fax registrations submit to:

City of Tomball, Attn: Denise Fiore, 401 Market St., Tomball, TX 77375.

Fax 281-351-6256 or Email dfiore@tomballtx.gov .

Event Fees		
Category	On or Before 3/27/2015	After 3/27/2015
5K Run	\$20	\$25
1 Mile Run/Walk 11 yrs +	\$15	\$20
1 Mile Run/Walk 10 & under	\$10	\$15

20% discount on groups of five (5) or more registering at the same time. Discount not available online, and are available only in-person at Tomball City Hall.



Saturday, April 11, 2015
8:00 A.M. – 5K Run/Walk
9:00 A.M. – 1 Mile Run/Walk
Historic Tomball Train Depot

Registration Form

****One registration form per participant****

Category: ☐ 5K Run/Walk ☐ 1 Mile Run/Walk ADULT ☐ 1 Mile Run/Walk YOUTH

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: (____) _____

Birth Date: ____/____/____ Gender: ☐ F ☐ M School: _____

Email Address: _____ Age on day of run: _____

Shirt Size: ☐ YS ☐ YM ☐ YL | ☐ S ☐ M ☐ L ☐ XL ☐ XXL ☐ XXXL

For Credit Card Payments

Name on Card: _____ Type: ☐ Visa ☐ MasterCard

Card Number: _____ Exp. Date: _____ 3 Digit Sec. Code: _____

Emergency Contact: _____ Phone: (____) _____

Emergency Contact: _____ Phone: (____) _____

Waiver and Release: In consideration of the acceptance of this registration entry, I, the undersigned, assume full & complete responsibility for any injury or accident which may occur during my participation in this race, or while I am on the premises of this event and I hereby release and hold harmless the sponsors, officials and all other persons and entities associated with this event from any and all injury, damages or illness which may directly or indirectly result from participation in this race. I further state that I am in proper physical condition to participate.

Signature of Participant

Date

Signature of Parent/Guardian if Participant is Minor

Date

EVENT FEES	On or before 3/27/15	After 3/27/15
5K Run	\$20.00	\$25.00
1-mile Run/Walk 11 yrs +	\$15.00	\$20.00
1 mile Run/Walk 10 yrs and under	\$10.00	\$15.00

Your privacy will be respected and no information will be shared with third parties.

STROLL THE TOLL

Sunday, April 12th from 2-4pm



Keep on Strollin'
on the new 249 toll road in Tomball!

Jog it. Walk it. Roll on it.

An official, uncertified, free-wheeling, non-vehicular
stroll on Tomball's newest roadway. . . The 249 toll road!

Call 281-351-5484 or visit tomballtx.gov for info

Tomball is Texan for Fun! ®

City of Tomball
Spring Clean up
Week of April 20-25, 2015
Monday – Saturday - 8:00 am - 4:30 pm

Objective:

Provide the citizens of Tomball the opportunity to dispose of large, hard-to-handle items that cannot be collected under the normal garbage service. **** (Remember this is for residents of Tomball only (must have City utility bill as proof); NO COMMERCIAL BUSINESS OPERATORS) ****

Roll Offs will be available at the City Landfill Site (0.4 miles north of E. Hufsmith on Rudolph) to dispose of the acceptable items. See map to landfill site below.

Acceptable Items:

- | | | |
|------------------------------|--------------------------|-----------------------------------|
| • Lumber | • Bricks (small amount) | • Gutter material |
| • Bicycle parts | • Empty buckets or pails | • Cardboard boxes |
| • Plywood (4 cubic yd. max) | • Rocks (small amount) | • Lawn mowers (oil & gas removed) |
| • Rugs/carpet | • Washing machines | • Dishwashers |
| • Siding | • Dryers | |
| • Clothing | • Water heaters | |
| • Box springs and mattresses | • Furniture | |

Not Acceptable:

- | | | |
|----------------------------------|--|--|
| • Tree trimmings | • Insecticides | • Raw meats, food products or byproducts |
| • Limbs or stumps | • Container with unmarked labels holding liquids | • Televisions |
| • Tires | • Sealed containers of any type | • Computers |
| • Engine blocks | • Large amounts of construction or demolition material | • Refrigerators |
| • Structural steel | • Smoke detectors | • AC units |
| • Equipment with oil or gasoline | • Pressurized vessels | • Appliances with Freon or fluids |
| • Fertilizers | • Flammable, combustible or corrosive products | • Paint |
| • Pool chemicals | | |
| • Batteries | | |
| • Oil filters | | |

All appliances must be drained and tagged by a licensed technician.

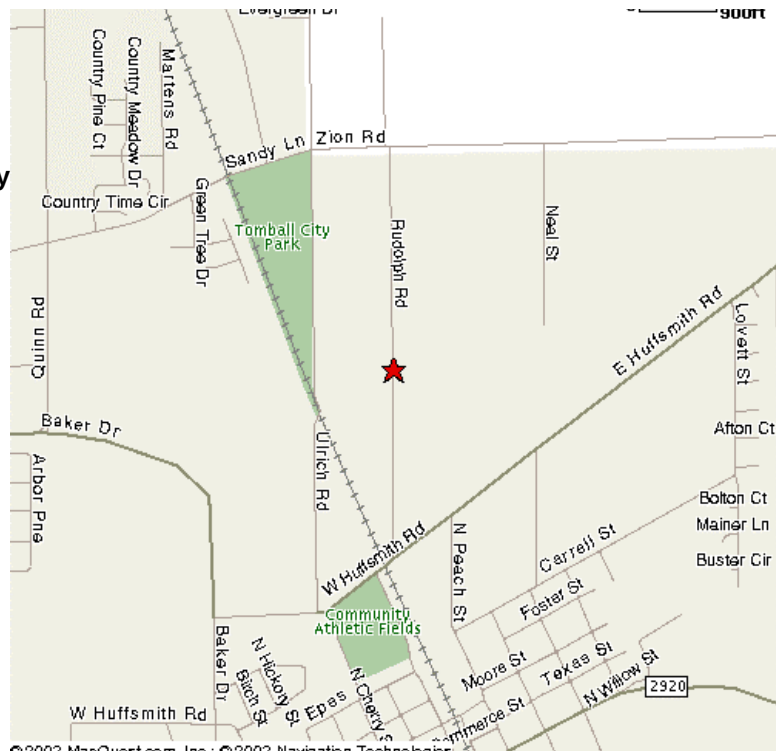
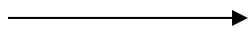
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

The City of Tomball will provide a free chipping service for brush and small limbs during the week of Tomball Cleanup. To participate, please call **(281) 290-1400** the week before the cleanup begins to be added to the chipping list.

CHIPPING SPECIFICATIONS:

- Turn all big ends toward road or in one direction
- Limit size to 6 ft.-8 ft., maximum
- Keep logs separate from limbs, nothing over 6" dia.
- Place limbs & brush near roadside and not on property
- Leaves, please bag for regular garbage pickup

Map to Tomball landfill site



Tomball Consolidated Recycling Day

Lone Star College –Tomball Campus

30555 Tomball Parkway

South entrance

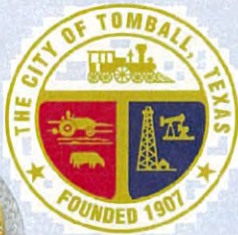
April 25th Saturday - 10am-2pm

Drive Thru and Drop Off the following APPROVED items:

E-Waste (computers and all accessories, Fax machines, laptop batteries, UPS/Lithium/Ni-Cad Batteries, Small kitchen appliances), Prescription Drugs (pill & liquid), Tires (car/truck/atv), Car Battery (Non-Leaking), Used Motor Oil, Household paper/plastics/glass, Paper Shredding

~~Plastic Bags, Paint, Styrofoam~~

Thanks to our Community Partners and Sponsors!!!



PHOENIX OIL
www.phoenixoil-tx.com



Got Drugs?



"This information is being distributed as a community service. Tomball Independent School District is not a sponsoring organization for this activity."

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Approve the Minutes of the February 16, 2015 Regular City Council Meeting

Background:**Origination:**

City Secretary

Recommendation:

N/A

Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - February 16, 2015 Regular City Council Meeting

**MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, FEBRUARY 16, 2015

6:00 P.M.

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Fagan. Other members present:

Councilman Stoll
Councilman Townsend
Councilman Klein Quinn
Councilman Hudgens

Members absent:

Councilman Degges – Excused

Others present:

City Manager – George Shackelford
Assistant City Manager – Robert Hauck
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Billy Tidwell
Fire Chief – Randy Parr
Marketing Director – Mike Baxter
Community Events Coordinator – Denise Neef-Fiore
Finance Director – Glenn Windsor
Public Works Director – David Esquivel
IT Manager – Doug Tippey
Community Development Director – Craig Meyers
City Engineer – Lori Lakatos
City Planner – Harold Ellis
Community Development Coordinator – Amelia Vasquez
Fire Marshal – Doug Sanguedolce
Community Center Director – Rosalie Dillon
Police Captain – Rick Grassi
Utilities Billing Supervisor, Lauren Sykora

2.0 The invocation was led by Pastor Scott Knight, The Pointe Fellowship Church

3.0 The pledges to U. S. and Texas Flags were led by Alan Paul, member of the Tomball High School Student Council, and Clark Abel, member of Scout Troop 113.

4.0 The following public comments were received:

- | | | |
|---|---|---|
| Mary Harvey
401 South Walnut, 77375 | - | Expressed her opposition to and concerns regarding Item 7.4, TRAC grant funding |
| Jeffie Cappadonna
12727 Zion Road, 77375 | - | Expressed her opposition to and concerns regarding Item 7.4, TRAC grant funding |
| Jennifer Parks
13807 Magnolia Manor, 77429 | - | Expressed her support for approval of Item 7.4, TRAC grant funding |

5.0 Reports and Announcements:

- Tomball Police Department Annual Data Capture Report (SB 1074)
- February 24, 2015 – **Trailride Reception** – 12 Noon at the Depot
- March 2, 2015 – Public Hearing to Consider the Advisability of the Creation of a Public Improvement District (PID 5)
- March 14, 2015 – **2nd Saturday at the Depot**
- March 21, 2015 – ***Tomball Honky Tonk Music Festival*** and ***"Texas Two-Step" Washers Tournament***
- March 27-29, 2015 – **German Heritage Festival at Depot Plaza**
- April 7 and 8, 2015 – **Shattered Lives Event** – Concordia Lutheran High School
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- April 25, 2015 – **Tomball Rotary Annual Fish Fry** at the Depot
- May 17, 2015 – **Lions Club Car Show** at the Depot
- ***Walk Tomball!*** – Every Saturday at **9:00 a.m.** at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken
 - Glenn Windsor presented information regarding the new utility billing system, invoicing and payment options.
 - Mike Baxter announced that "The Daytripper", PBS' popular travel show, will be in Tomball on Thursday and Friday (2/19-20/2015) to film the Depot, Museum Complex, Nonnies, Whistle Stop, Mel's, the Family Homestead, and Main Street Crossing for the 2015 season.

- 6.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the February 2, 2015 Regular City Council Meeting.

Motion carried unanimously.

7.0 New Business:

- 7.1 Motion was made by Councilman Klein Quinn, second by Councilman Townsend, to approve Request by Oil Patch Kids for In-Kind Support for the Use of the Tomball Community Center and Services of One Attendant, on Saturday, May 9, 2015.

Motion carried unanimously.

- 7.2 Motion was made by Councilman Klein Quinn, second by Councilman Townsend, to approve Request by Tomball Lions Club for City Co-sponsorship and Support for the Annual Car Show, to be held on Sunday, May 17, 2015 at the Depot.

Motion carried unanimously.

- 7.3 Motion was made by Councilman Klein Quinn, second by Councilman Stoll, to approve Request from Tomball Rotary Club for City Co-sponsorship and Support for the 46th Annual Tomball Rotary Fish Fry, to be held on Saturday, April 25, 2015 at the Depot. Councilman Hudgens advised that he would abstain, as a member of Rotary. Vote was as follows:

Councilman Hudgens	<u>Abstain</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Absent</u>
Councilman Townsend	<u>Aye</u>
Councilman Klein Quinn	<u>Aye</u>

Motion carried unanimously, with 1 abstention.

- 7.4 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve TRAC Request for Funding of the 2014 Nutcracker Performances, held December 5-7, 2014 at the Tomball High School Auditorium, in the Amount of \$15,400.

Motion to Amend was made by Councilman Townsend, second by Councilman Stoll, to return consideration of TRAC's request for funding of the 2014 Nutcracker performances to the Tourism Advisory Committee for review and recommendation to Council, following resubmittal of the application for funding by TRAC.

Motion to AMEND carried unanimously.

- 7.5 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve the Purchase of Thirteen (13) Vehicles through Caldwell Country Chevrolet, under an Existing BuyBoard Contract, in the Amount of \$373,019.00. Vote was as follows:

Councilman Hudgens	<u>Nay</u>
Councilman Stoll	<u>Nay</u>
Councilman Degges	<u>Absent</u>
Councilman Townsend	<u>Nay</u>
Councilman Klein Quinn	<u>Nay</u>

Motion FAILED unanimously.

Direction was given by Council for City staff to bid the possible purchase of the listed vehicles and equipment.

- 7.6 Consideration to approve **ZONING CASE P14-262**: Request by Jose Vasquez to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, within the City of Tomball, Harris County, Texas, generally located at the southwest corner of Lizzie Lane and South Persimmon Street, from the Single-Family Residential-6 District to the Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P14-262** at 7:01 p.m.
- Receiving no public comments, Mayor Fagan closed the Public Hearing at 7:01 p.m.
- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2015-03 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2015-03, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by changing the Zoning District classification of approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, within the City of Tomball, Harris County, Texas, from the Single-Family Residential-6 District to the Commercial District; Said property being generally located at the southwest corner of Lizzie Lane and South Persimmon Street; Providing for the amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Absent</u>

Councilman Townsend	<u>Aye</u>
Councilman Klein Quinn	<u>Aye</u>

Motion carried unanimously.

- 7.7 Consideration of **YAUPON TRAILS SEC 1**: A subdivision of 10.9460 acres of Land, being a Replat of Unrestricted Reserve "E", Final Plat of Leslie's Park, Recorded in Film Code No. 400005, H.C.M.R., Situated in the Joseph House Survey, Abstract No. 34, City of Tomball, Harris County, Texas was withdrawn at the request of City staff.

No action necessary.

- 7.8 Motion was made by Councilman Stoll, second by Councilman Townsend, to read Ordinance No. 2015-04 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on First Reading, Ordinance 2015-04, an Ordinance of the City of Tomball, Texas Waiving the Assessment and Collection of Impact Fees for Water and Wastewater Utilities for the Development of Commercial Properties within the Old Town Area as defined in the Tomball Comprehensive Plan and including the Properties located West of the BNSF Railroad, South of Fannin Street, East of South Elm Street, and North of Florence Street, Starting at the DSP Boundary in the Southeast corner at the BNSF Railroad and Florence Street Westerly along Florence Street to South Pine Street, Northerly along South Pine Street to Percival Street, Westerly along Percival Street to School Street, Northerly along School Street to Main Street, Westerly along Main Street to Baker Street, Northerly along Baker Street to Hicks Street, Easterly along Hicks Street to North Magnolia Street, Northerly along North Magnolia Street to Unimproved Right-of-Way North of Hicks and Epps Streets, Easterly along Unimproved Right-of-Way North of Hicks and Epps Streets to North Cherry Street, Southerly along North Cherry Street to Epps Street, Easterly along Epps Street to North Elm Street, Southerly along North Elm Street to Main Street, Main Street Southerly along South Elm Street to Unimproved Fannin Street, Easterly along Unimproved Fannin Street to Right-of-Way Adjacent to BNSF Railroad, Southerly along Right-of-Way adjacent to BNSF Railroad to Florence Street until March 2, 2017; and Providing for Severability. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Degges	<u>Absent</u>
Councilman Townsend	<u>Aye</u>
Councilman Klein Quinn	<u>Nay</u>

Motion carried, 3 votes Aye, 1 vote Nay.

- 7.9 Discussion was held regarding Allowing Brewpub Operations in Old Town Mixed-Use Area, through Conditional Use Permit for “Distillation of Liquors”.

Direction was given for City staff to develop and provide recommendations to amend Chapter 50 of the Code of Ordinances to provide for brewpub/micro-brewing operations (“Distillation of Liquors”) with a Conditional Use Permit.

No action taken.

- 7.10 Billy Tidwell provided presentation regarding Body Worn Cameras and Real Time Streaming Vision for Tomball Police Department Officers.

Direction was given by Council for George Shackelford, Billy Tidwell, and Doug Tippey to pursue the purchase of body-worn cameras, real time streaming, and video editing software; funding is available.

No action taken.

- 7.11 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to approve the proposed Settlement Agreement between the City of Tomball and Martha Michel Huebner, Trustee of the Michel Family Irrevocable Trust, to Acquire 3.001 Acres of Land, Approximately Located at the Southeast Corner of SH 249 and Holderrieth Road as Part of the M121 Drainage Project in the City of Tomball.

Motion carried unanimously.

- 8.0 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 2nd day of March 2015.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2015-03, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by changing the Zoning District classification of approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, within the City of Tomball, Harris County, Texas, from the Single-Family Residential-6 District to the Commercial District; Said property being generally located at the southwest corner of Lizzie Lane and South Persimmon Street; Providing for the amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

On December 30, 2014, the applicant submitted a rezoning application requesting the property be rezoned from the SF-6 District to the Commercial District.

On February 9, 2015, the Planning and Zoning Commission, after conducting a Public Hearing, unanimously recommended approval of Zoning Case P14-262.

Origination:

Community Development Department

Recommendation:

Approval

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2015-03

P14-262 Staff Report

Notice of Public Hearing

P14-262 Property Owner Notification Letter

ORDINANCE NO. 2015-03

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 4.02 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 1, BLOCK 1, VASQUEZ-PHOENIX, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SINGLE-FAMILY RESIDENTIAL-6 DISTRICT TO THE COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED AT THE SOUTHWEST CORNER OF LIZZIE LANE AND SOUTH PERSIMMON STREET; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, Jose Vasquez has requested that approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, generally located at the southwest corner of Lizzie Lane and South Persimmon Street, in the City of Tomball, Harris County, Texas, (the "Property"), be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City's receipt of the requested rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested rezoning; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested rezoning and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The zoning classification of the Property is hereby changed from the Single-Family Residential-6 District to the Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the Commercial District as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 16TH DAY OF FEBRUARY 2015.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>ABSENT</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:

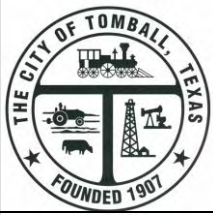
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE
CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 2ND DAY OF MARCH 2015.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGS	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning & Zoning Commission Hearing Date: February 9, 2015
City Council Public Hearing Date: February 16, 2015

Zoning Case: P14-262
Property Owner(s): Jose Vasquez
Applicant(s): Jose Vasquez
Legal Description: Lot 1, Block 1, Vasquez-Phoenix
Location: Southwest corner of Lizzie Lane and South Persimmon Street (Exhibit "A")
Area: 4.02 acres
Present Zoning and Use: Single-Family Residential-6 (SF-6) District (Exhibit "B") / Undeveloped land (Exhibit "C")
Comp Plan Designation: Employment/Office (Exhibit "D")
Proposed Zoning and Use: Commercial District¹ / Office and warehouse
Adjacent Zoning and Use:
North: Commercial District / Lizzie Lane and office and warehouse uses
South: Light Industrial (LI) District/ City of Tomball drainage channel, single-family residence, and commercial warehouse.
West: SF-6 District / Undeveloped land and a single-family residence
East: Agricultural and Commercial Districts / South Persimmon Street, agricultural land, and office and warehouse.

BACKGROUND

In December 2014, the property owner, Jose Vasquez, met with City staff to inform them of his desire to develop the subject site with office/warehouses (Exhibit "E") and to inquire into the property's zoning classification. City staff informed Mr. Vasquez of the following:

- The property was zoned SF-6 District;
- The SF-6 District classification did not permit the construction of office/warehouses;

¹ Any use permitted in the proposed district would be allowed at this location if the zoning is changed. The Planning & Zoning Commission and City Council may consider zoning classifications other than that sought by the applicant for this property.

- The property had a Comprehensive Plan future land use classification of Employment/Office which was consistent with the Commercial District;
- City staff would support a rezoning of the property to the Commercial District to allow the office/warehouse use;

Subsequent to these discussions, the property owner turned in a rezoning application (Exhibit “F”) requesting the property be rezoned from the SF-6 District to the Commercial District.

ANALYSIS

The applicant is requesting that the property be rezoned from the SF-6 District to the Commercial District. According to Section 50-77 of the Tomball Code of Ordinances, the Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses.”

There are several land uses in the vicinity of the subject site. To the north are Lizzie Lane and office and warehouse uses; to the south are a City of Tomball drainage channel, a single-family residence, and a commercial warehouse; to the west are undeveloped land and a single-family residence; and to the east are South Persimmon Street, agricultural land, and an office and warehouse use. The uses permitted by the Commercial District appear to be compatible with the numerous non-residential uses in the area. Any potential incompatibility of the request with the existing single-family residences to the south and west appears to be minimized by Chapter 50 (Zoning) of the Code of Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District.

There are several zoning classifications in the vicinity of the subject site. To the north is the Commercial District; to the south is the LI District; to the west is the SF-6 District; and to the east are the Agricultural and Commercial Districts. The Commercial District appears to be compatible with the Commercial and LI Districts to the north, south, and east. Any potential incompatibility of the request with the SF-6 District to the west appears to be minimized by Chapter 50 (Zoning) of the Code of Ordinance’s building setback, landscaping, screening, and buffering requirements.

The Comprehensive Plan designates the subject site as Employment/Office. According to the Comprehensive Plan, “Employment/Office indicates where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations.” The Commercial District appears to be compatible with the Employment/Office Comprehensive Plan designation.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission and City Council shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole.**

The uses permitted by the Commercial District appear to be compatible with the numerous non-residential uses in the area. While any adverse impacts of this request have not been identified, any potential incompatibility of the request with the existing single-family residences to the south and west appears to be able to be mitigated by Chapter 50 (Zoning) of the Code of Ordinance's building setback, landscaping, screening, and buffering requirements for the Commercial District.

- B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.**

The proposed rezoning is not anticipated to negatively impact any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.**

There are several vacant properties in the vicinity and elsewhere in the City zoned Commercial District.

- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.**

There has been steady development City-wide in the Commercial District.

- E. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved.**

If the proposed rezoning is approved, few, if any affects on other areas designated for similar developments are anticipated.

- F. Any other factors that will substantially affect the public health, safety, morals, or general welfare.**

The proposed rezoning does not appear to negatively affect the public health, safety, morals, or general welfare.

- G. Whether the request is consistent with the Comprehensive Plan.**

The Commercial District appears to be compatible with the Employment/Office Comprehensive Plan designation.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on January 28, 2015. No public comment forms have been received as of February 2, 2015.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **APPROVAL** of Zoning Case P14-262.

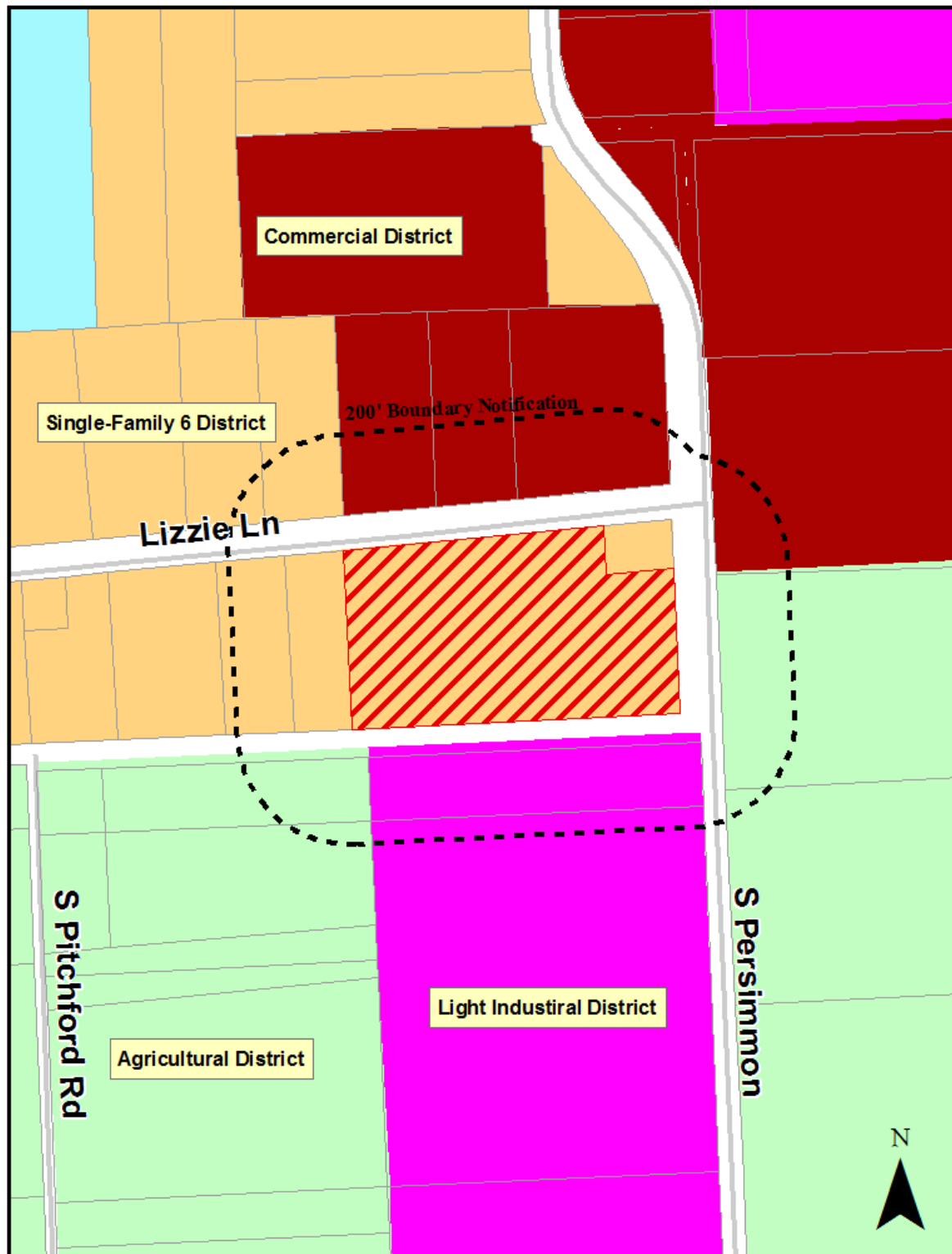
EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photo(s)
- D. Comprehensive Plan Map
- E. Conceptual Site Plan
- F. Rezoning Application

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photo(s)**



Figure 1: Subject site. South Persimmon Street on left.
Source: City of Tomball



Figure 2: Subject site. Lizzie Lane on right.
Source: City of Tomball

Exhibit "D"
Comprehensive Plan Map

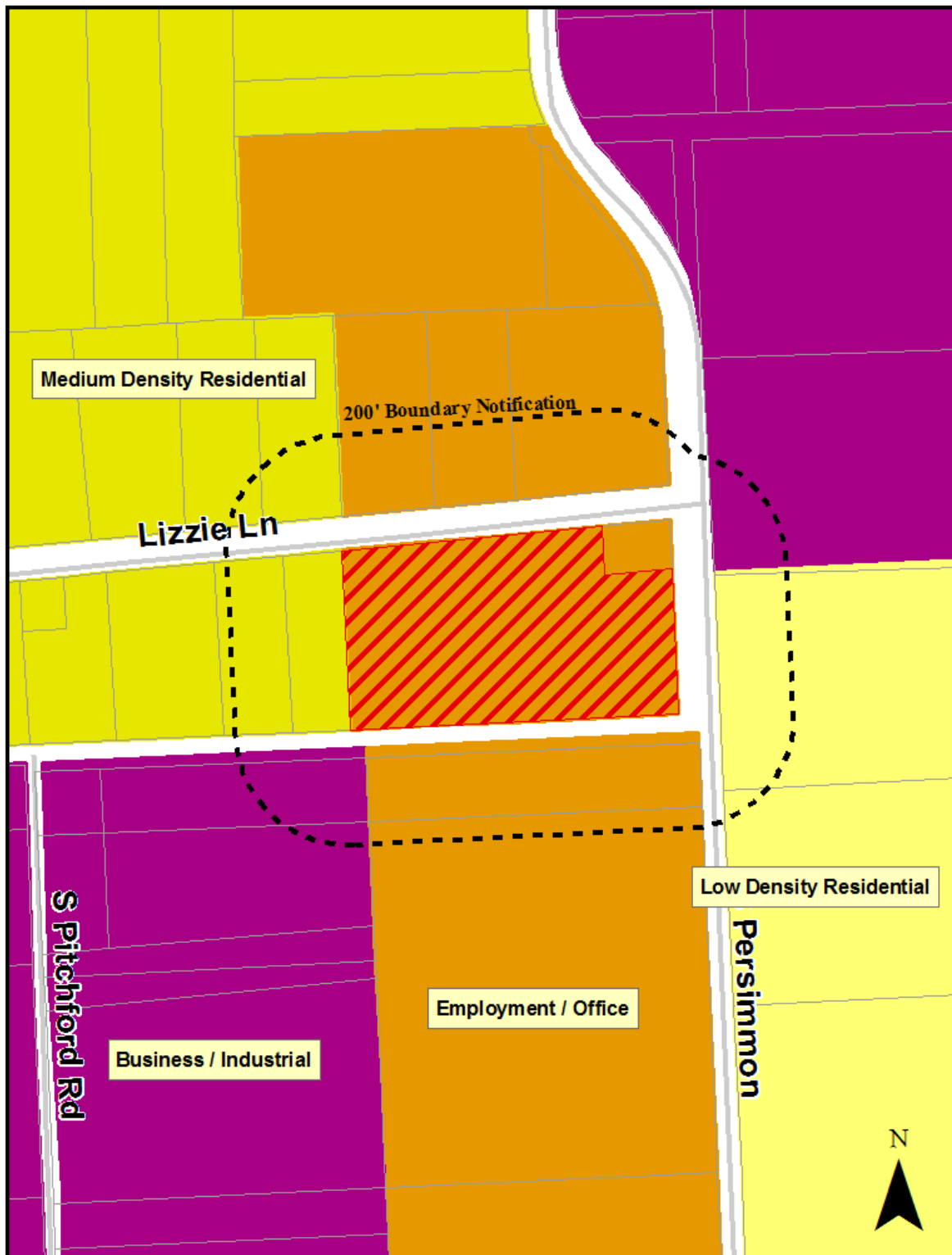
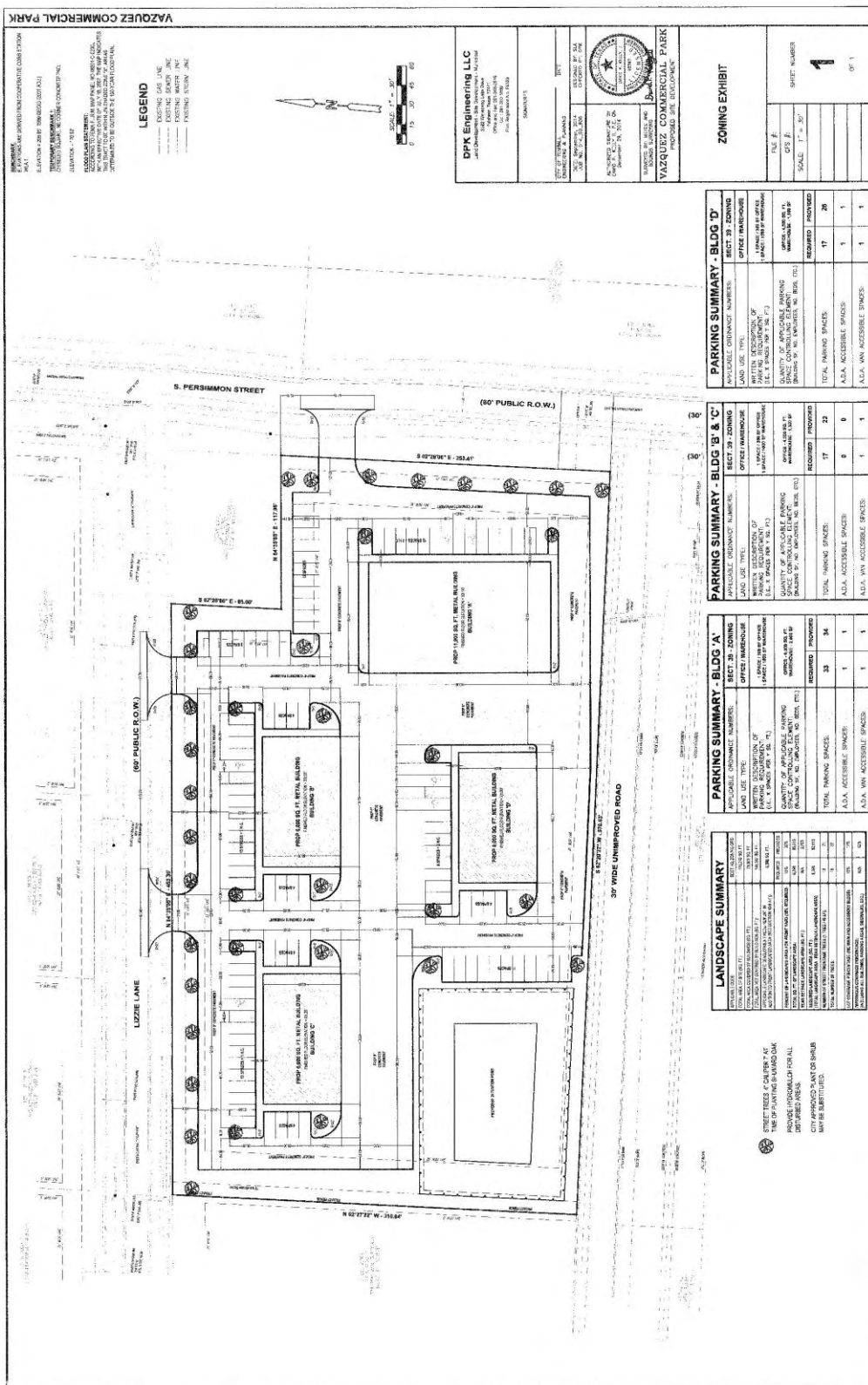
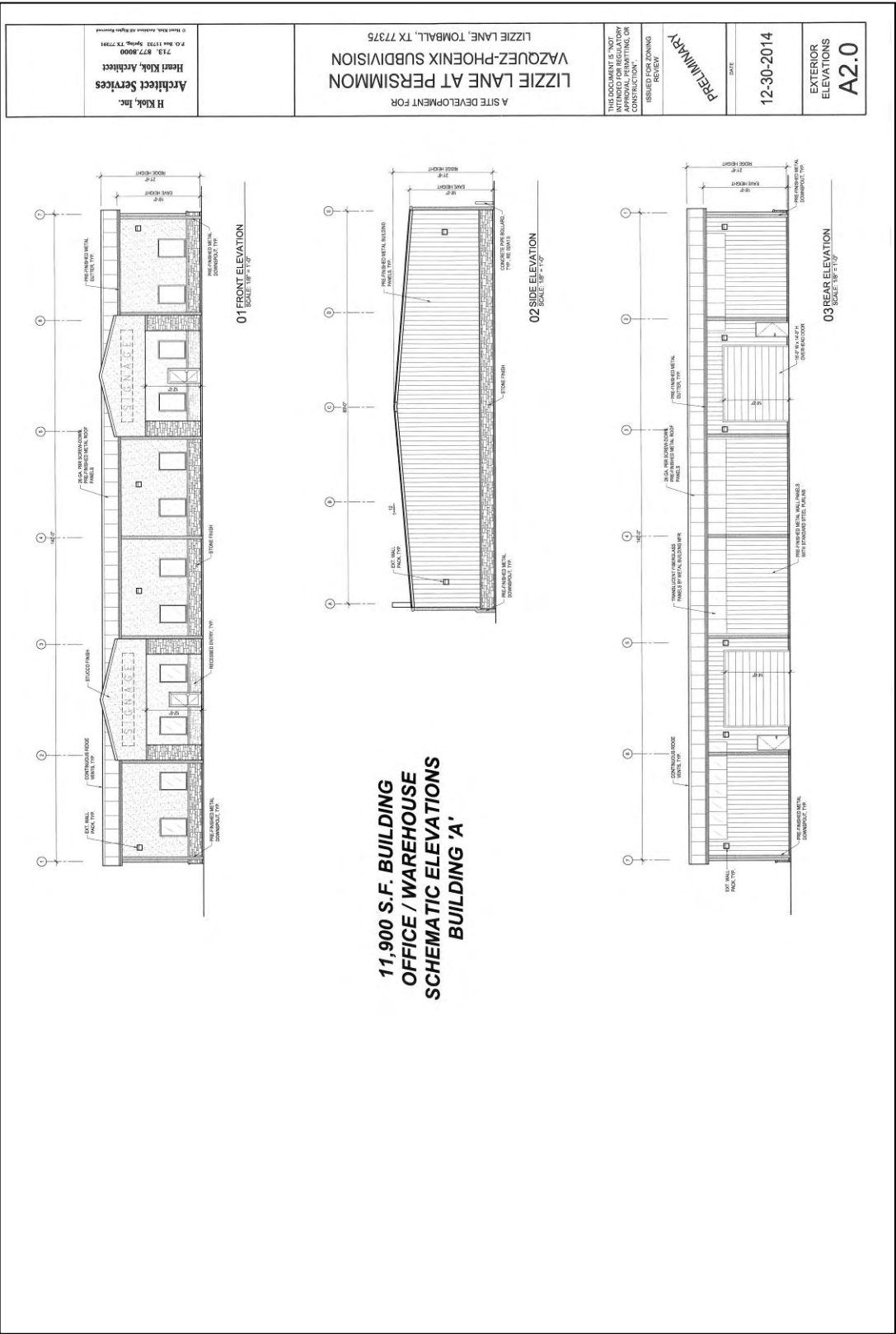


Exhibit “E”

Conceptual Site Plan





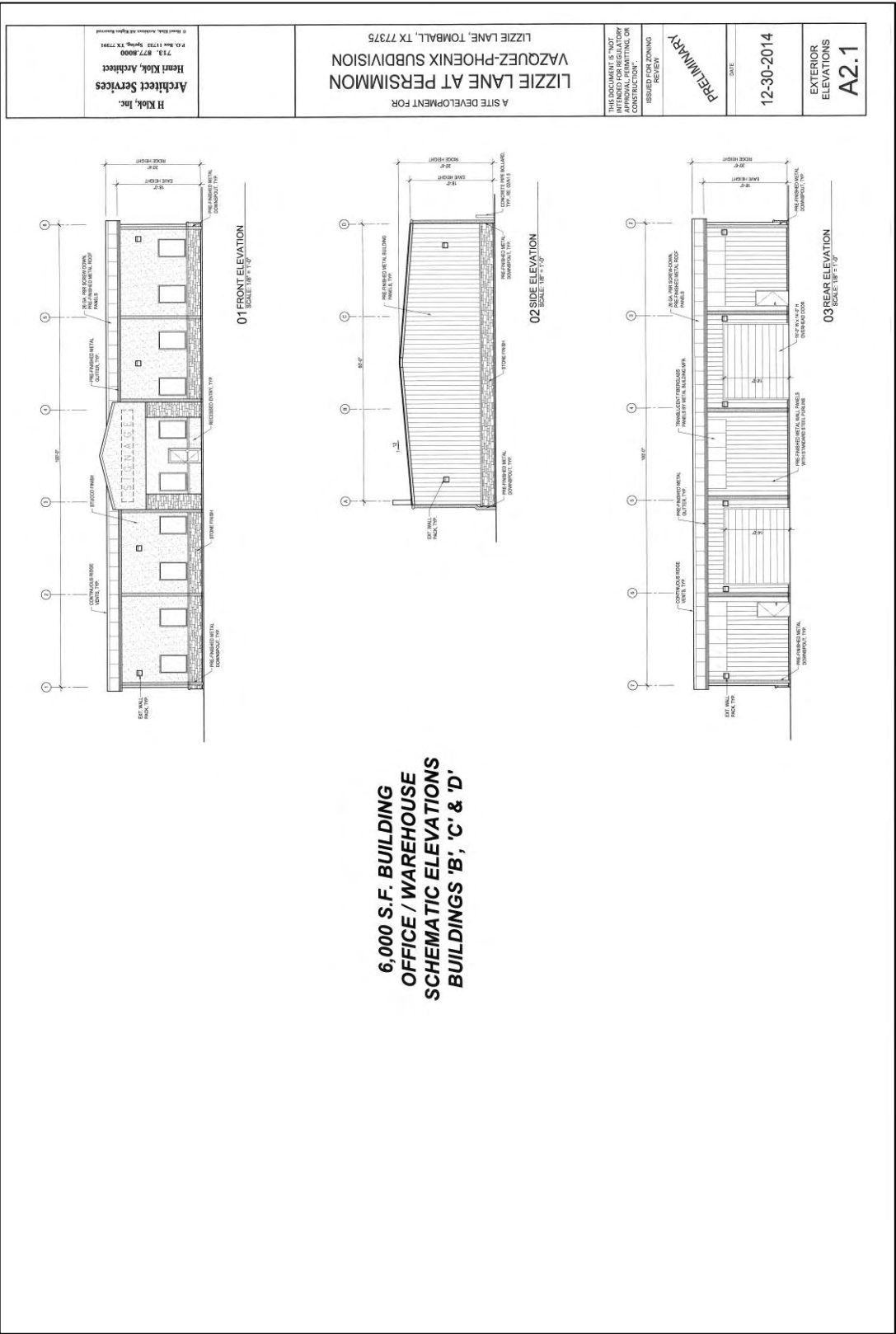


Exhibit "F"
Rezoning Application

114-262

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant

Name: J. VAZQUEZ Title: OWNER
Mailing Address: 3007 Woodland Hills Dr City: Kingwood State: TX
Zip: 77339
Phone: 832 287-4912 Fax: () Email: JVC@TEMEXSTEEL.COM

Owner

Name: J. VAZQUEZ Title: OWNER
Mailing Address: 3007 WOODLAND HILLS DR. City: KINGWOOD State: TX
Zip: 77339
Phone: 832 287-4912 Fax: () Email: JVC@TEMEXSTEEL.COM

Engineer/Surveyor (if applicable)

Name: DAVID KELLY/H. KLOK Title: ARCH/ENG
Mailing Address: PO Box 11732 City: Spring State: TX
Zip: 77391
Phone: 713 877-8000 Fax: () Email: ARCHITECT@NEWVORTEX.COM

Description of Proposed Project: VAZQUEZ COMMERCIAL PARK

Physical Location of Property: LIZZIE LN & S. PERSIMMONS

[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: LT 1 BLK 1 VAZQUEZ PHOENIX

[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SINGLE FAMILY 6 DISTRICT

Current Use of Property: VACANT

Proposed Zoning District: COMMERCIAL DISTRICT

Proposed Use of Property: COMMERCIAL - SEE ATTACHED
PLANS + ELEVATIONS

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

1287940010001 4.0228 Ac.
HCAD Identification Number: _____ Acreage: _____

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

Waguney by HKLsk, Architect 12-29-2014
Signature of Applicant Date

X
[Signature] 12-19-14
Signature of Owner Date

Joe Vazquez, Owner

Vazquez Commercial Park

December 29, 2014

Harold Ellis

Planning Division

Community Development Department

City of Tomball, Texas 77375

Re: Request for Re-Zoning of Lot 1 Block 1 of the Vazquez-Phoenix Plat HCAD 1287940010001

Dear Sirs:

The owner of this property Mr. Joe Vazquez originally purchased the property in conjunction with a set of partners to develop the Vazquez Phoenix plat as a commercial development on the north east and south east corner of Lizzie lane at S. Persimmons in Tomball, Texas 77375.

The partnership split into two parties and the northern section was developed in 2008 while Mr. Vazquez decided to develop his own portion a later date. During this time the City of Tomball has developed a zoning classification for this property as residential and there for Mr. Vazquez has requested that his original concept for a set of commercial buildings be considered for this lot.

The presentation materials attached demonstrate the history of the property from the original plat and the commercial development on the north side of Lizzie lane. A new development study was commissioned by the Owner of DPK Engineering to meet the development standards of a commercial tract in the City of Tomball and the drainage requirements of Harris County.

The development will be designed to meet the architectural and landscape requirements of the City of Tomball with considerate attention paid to the street elevations. The proposed development should be a complement to the neighborhood and the select commercial properties nearby.

We hope the City of Tomball will agree to the request and allow the project to be considered for

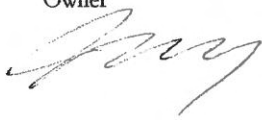
Page 1 of 2

for public review and approval.

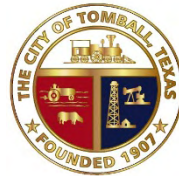
Thank you,

Mr. Joe Vazquez

Owner

A handwritten signature in black ink, appearing to read "Joe Vazquez", written in a cursive style.

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
FEBRUARY 9, 2015
&
CITY COUNCIL
FEBRUARY 16, 2015**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, February 9, 2015, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, February 16, 2015, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the P&Z and City Council will consider the following:

ZONING CASE P14-262: Request by Jose Vasquez to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, within the City of Tomball, Harris County, Texas, generally located at the southwest corner of Lizzie Lane and South Persimmon Street, from the Single-Family Residential-6 District to the Commercial District.

Persons interested in this case will be given an opportunity to be heard. Action by the P&Z serves as a recommendation to the City Council and is not a final action on the request. Should the P&Z vote to table a decision/recommendation on this case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the P&Z. The application is available for public review Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

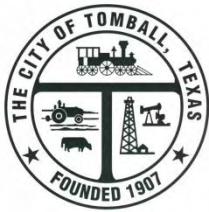
CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 5th day of February 2015 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Harold Ellis

Harold Ellis
City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-262

APPLICANT/OWNER: J. Vazquez

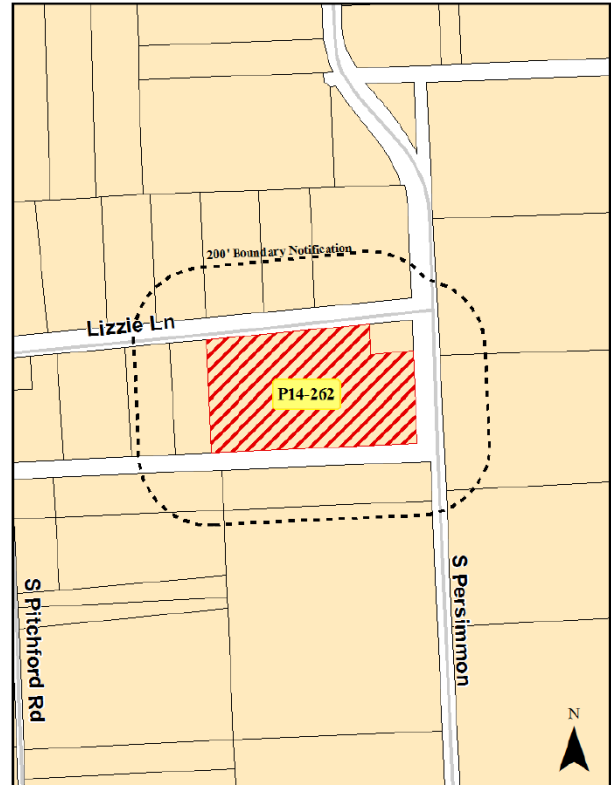
LOCATION: Near the southwest corner of Lizzie and S. Persimmon

PROPOSAL: Request by Jose Vasquez to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 4.02 acres of land, legally described as Lot 1, Block 1, Vasquez-Phoenix, within the City of Tomball, Harris County, Texas, generally located at the southwest corner of Lizzie Lane and South Persimmon Street, from the Single-Family Residential-6 District to the Commercial District.

CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov



**Planning & Zoning Commission
Public Hearing:
Monday, February 9, 2015, 6:00 PM**

**City Council Public Hearing:
*Monday, February 16, 2015, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance 2015-04, an Ordinance of the City of Tomball, Texas Waiving the Assessment and Collection of Impact Fees for Water and Wastewater Utilities for the Development of Commercial Properties within the Old Town Area as defined in the Tomball Comprehensive Plan and including the Properties located West of the BNSF Railroad, South of Fannin Street, East of South Elm Street, and North of Florence Street, Starting at the DSP Boundary in the Southeast corner at the BNSF Railroad and Florence Street Westerly along Florence Street to South Pine Street, Northerly along South Pine Street to Percival Street, Westerly along Percival Street to School Street, Northerly along School Street to Main Street, Westerly along Main Street to Baker Street, Northerly along Baker Street to Hicks Street, Easterly along Hicks Street to North Magnolia Street, Northerly along North Magnolia Street to Unimproved Right-of-Way North of Hicks and Epps Streets, Easterly along Unimproved Right-of-Way North of Hicks and Epps Streets to North Cherry Street, Southerly along North Cherry Street to Epps Street, Easterly along Epps Street to North Elm Street, Southerly along North Elm Street to Main Street, Main Street Southerly along South Elm Street to Unimproved Fannin Street, Easterly along Unimproved Fannin Street to Right-of-Way Adjacent to BNSF Railroad, Southerly along Right-of-Way adjacent to BNSF Railroad to Florence Street until March 2, 2017; and Providing for Severability

Background:

Ordinance 2013-01, which previously waived the assessment and collection of water and wastewater impact fees within the Old Town Area, is set to expire on March 1, 2015. Ordinance No. 2015-04 extends the waiver period to March 2, 2017.

Origination:

Bryan Hutson, The Hutson Group

Recommendation:

N/A

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2015-04

Bryan Hutson Letter

Impact Fee Waiver Area Map

ORDINANCE NO. 2015-04

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS WAIVING THE ASSESSMENT AND COLLECTION OF IMPACT FEES FOR WATER AND WASTEWATER UTILITIES FOR THE DEVELOPMENT OF NON-RESIDENTIAL PROPERTIES WITHIN THE OLD TOWN AREA AS DEFINED IN THE TOMBALL COMPREHENSIVE PLAN AND INCLUDING THE PROPERTIES LOCATED WEST OF THE BNSF RAILROAD, SOUTH OF FANNIN STREET, EAST OF SOUTH ELM STREET, AND NORTH OF FLORENCE STREET, STARTING AT THE DSP BOUNDARY IN THE SOUTHEAST CORNER AT THE BNSF RAILROAD AND FLORENCE STREET WESTERLY ALONG FLORENCE STREET TO SOUTH PINE STREET, NORTHERLY ALONG SOUTH PINE STREET TO PERCIVAL STREET, WESTERLY ALONG PERCIVAL STREET TO SCHOOL STREET, NORTHERLY ALONG SCHOOL STREET TO MAIN STREET, WESTERLY ALONG MAIN STREET TO BAKER STREET, NORTHERLY ALONG BAKER STREET TO HICKS STREET, EASTERLY ALONG HICKS STREET TO NORTH MAGNOLIA STREET, NORTHERLY ALONG NORTH MAGNOLIA STREET TO UNIMPROVED RIGHT-OF-WAY NORTH OF HICKS AND EPPS STREETS, EASTERLY ALONG UNIMPROVED RIGHT-OF-WAY NORTH OF HICKS AND EPPS STREETS TO NORTH CHERRY STREET, SOUTHERLY ALONG NORTH CHERRY STREET TO EPPS STREET, EASTERLY ALONG EPPS STREET TO NORTH ELM STREET, SOUTHERLY ALONG NORTH ELM STREET TO MAIN STREET, MAIN STREET SOUTHERLY ALONG SOUTH ELM STREET TO UNIMPROVED FANNIN STREET, EASTERLY ALONG UNIMPROVED FANNIN STREET TO RIGHT-OF-WAY ADJACENT TO BNSF RAILROAD, SOUTHERLY ALONG RIGHT-OF-WAY ADJACENT TO BNSF RAILROAD TO FLORENCE STREET UNTIL MARCH 2, 2017; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, on or about August 4, 2014, the City Council of the City of Tomball, Texas adopted a Capital Improvements Plan and Impact Fees for Water and Wastewater Utilities; and

WHEREAS, the City Council desires to waive impact fees for water and wastewater utilities for non-residential properties located within the Old Town Area as defined in the Tomball Comprehensive Plan and including the properties located west of the BNSF railroad, south of

Fannin Street, east of South Elm Street, and north of Florence Street, starting at the DSP boundary in the southeast corner at the BNSF railroad and Florence Street westerly along Florence Street to South Pine Street, northerly along South Pine Street to Percival Street, westerly along Percival Street to School Street, northerly along School Street to Main Street, westerly along Main Street to Baker Street, northerly along Baker Street to Hicks Street, easterly along Hicks Street to North Magnolia Street, northerly along North Magnolia Street to unimproved right-of-way north of Hicks and Epps Streets, easterly along unimproved right-of-way north of Hicks and Epps Streets to North Cherry Street, southerly along North Cherry Street to Epps Street, easterly along Epps Street to North Elm Street, southerly along North Elm Street to Main Street, Main Street southerly along South Elm Street to unimproved Fannin Street, easterly along unimproved Fannin Street to right-of-way adjacent to BNSF railroad, southerly along right-of-way adjacent to BNSF railroad to Florence Street until March 2, 2017; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters contained in the preamble are hereby found to be true and correct.

Section 2. The assessment and collection of Impact Fees for water and wastewater utilities for the development of non-residential properties within the Old Town Area as defined in the Tomball Comprehensive Plan and including the properties located west of the BNSF railroad, south of Fannin Street, east of South Elm Street, and north of Florence Street, starting at the DSP boundary in the southeast corner at the BNSF railroad and Florence Street westerly along Florence Street to South Pine Street, northerly along South Pine Street to Percival Street, westerly along Percival Street to School Street, northerly along School Street to Main Street, westerly along Main Street to Baker Street, northerly along Baker Street to Hicks Street, easterly along Hicks Street to North Magnolia

Street, northerly along North Magnolia Street to unimproved right-of-way north of Hicks and Epps Streets, easterly along unimproved right-of-way north of Hicks and Epps Streets to North Cherry Street, southerly along North Cherry Street to Epps Street, easterly along Epps Street to North Elm Street, southerly along North Elm Street to Main Street, Main Street southerly along South Elm Street to unimproved Fannin Street, easterly along unimproved Fannin Street to right-of-way adjacent to BNSF railroad, southerly along right-of-way adjacent to BNSF railroad to Florence Street are hereby waived until March 2, 2017.

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 16TH DAY OF FEBRUARY 2015.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>ABSENT</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>NAY</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 2ND DAY OF MARCH
2015.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

HG
HUTSON GROUP
PROPERTY DEVELOPMENT
& MANAGEMENT
family owned and operated

108 S Pine St
Tomball, Texas 77375

713.678.0152
hutsongroup.com

February 9, 2015

MAYOR GRETCHEN FAGAN
CITY COUNCIL
City of Tomball
401 Market St
Tomball, Texas 77375

RE: Impact Fees and the Old Town Tomball historic district

Mayor Fagan and City Council:

Old Town Tomball is currently on the cusp of commercial success, but in a careful, controlled and responsible manner. Its appeal to local 'mom and pop'-style businesses that epitomize the family-friendly atmosphere we cherish here is critical. Over the past two years, we've seen an influx of solid small family-run businesses gravitating away from town-style shopping areas surrounding Tomball to our own authentic 100-year-old historic district. Such new businesses include yoga studios, organic coffee shops, bakeries, upscale wine bars and pubs, restaurants, cafes, boutique retail shops and live music venues. We are also in preliminary stages of bringing Old Town Tomball its first authentic microbrewery. Another first for Tomball (and Texas) is Tejas Chocolates—Texas' only true independent bean-to-bar chocolate production company—which has already begun build-out and preparation to open at 200 N Elm, Old Town's oldest standing building. Old Town Tomball is gathering momentum and truly becoming a destination the entire city can be proud.

To help facilitate this recent growth, the City Council on February 18, 2013, passed Ordinance 2013-1, which set the stage for our historic district to blossom and become more attractive to new businesses. Specifically, Ordinance 2013-1 suspended all impact fees for the Old Town Tomball area for a period of two (2) years. These calculated fees can be devastating to a new small business and effectively eliminate the possibility of any smaller restaurants opening in Old Town.

This reality is punctuated by the story of the former Snookie's Fish Camp Restaurant that was the catalyzing force for the 2-year moratorium on impact fees in 2013. Snookie's Restaurant was conceived and opened in Old Town by the Holyfields, a local Tomball family. Unfortunately, the City of Tomball required payment of a \$49,000 impact fee, based on the new usage of the building, from the Holyfields as a condition prior to their restaurant receiving its certificate of occupancy to begin operations. The Holyfield family had no hope of being able to fund an extra \$49,000 City fee on top of using their life savings to build out and open a restaurant. The issue was further complicated when it was realized that the impact fee for a bar to open in Old Town was around \$2,000. The City's own impact fee ordinance effectively encouraged bars and pubs to line the streets of Old Town Tomball at the expense of local family restaurants.

As a direct result, Ordinance 2012-31 was quickly put into effect to suspend the fees. Very soon after, Ordinance 2013-1 was enacted to waive impact fees in Old Town until March 1, 2015.

The expiration date of March 1, 2015, is upon us and could very well threaten to bring Old Town development to an immediate grinding halt. Small businesses will be excluded from opening here and local families looking to realize their dream of their own small-town bistro will look elsewhere. Because of the impact fee barrier to entry, Old Town will become home to the only businesses that can afford the fees, such as large national chains. Old Town could simply become another generic chain-business venue like so many other shopping centers surrounding Tomball.

In an effort to show the immense positive impact Ordinance 2013-1 has had upon Tomball, I've included a list of businesses that have opened since the impact fee waiver went into effect February 18, 2013. None of these businesses would be in Old Town Tomball were it not for the 2-year waiver.

Business	Type	Address	Owner
Turquoise Door	Upscale Co-Op Retail	212 W Main	Jaime Carlton
Lunch Ladies Cafe	Restaurant/Cafe	214 W Main	Danel Macaluso
Lagniappe of The Woodlands	Catering Service	214 W Main	Danel Macaluso
Birds of a Feather	Boutique Retail	406 W Main	Francesca Garcia
Frosted Bakery	Sweets Bakery	307 W Main	Jennifer Rockey
Whistle Stop Express	Restaurant/Take-Out	104 N Elm	Cindy Vincik
Mi Pottery	Family Pottery Crafts	106 N Elm	Shelley Barreda
Sawyer's Place	Event Hosting/Parties	106 N Elm	Sawyer Matson
Burlap Ranch	Specialty Boutique	110 Commerce	Melissa Scott
Frou Frou Galore	Upscale Co-Op Retail	120 W Main	Ariana Hauser
Legacy Beauty Academy	Cosmetology School	112 Commerce	Gaylene Green
Horton Photography	Boudoir Photography	111 Houston	Jennifer Horton
The Craftery	Full Service Restaurant	200 N Elm	Scott Moore
Tejas Chocolates	Chocolate Bar Crafting	200 N Elm	Scott Moore
Doggie in Wonderland	Upscale Pet Boutique	100 Houston	Cynthia Fagan
Jane and John Dough Bakery	Full Service Bakery	208 N Elm	John Blankmeyer
Jane and John Dough Bakery	Organic Craft Coffee	208 N Elm	Jane Wild
Gina's Wellness and Massage	Massage Day Spa	105 Houston	Gina Murray
Wild Spirit Yoga	Yoga Studio	104 Houston	Jennifer Hennrich
Snookie's Fish Camp	Full-Service Restaurant	106 Market	Rachael Holyfield
Brautigam's Grill	Full-Service Restaurant	106 Market	Michael Kelly
The Empty Glass	Upscale Wine Bar	104 Market	Dana Kelly
Nonnie's Cafe	Restaurant/Cafe	102 Market	Laura Wilson
Cisco's Salsa Company	Full-Service Restaurant	209 Commerce	Laura Wilson
Cherry Street Antiques	Antique Co-Op	106 N Cherry	Chuck Harper

There have been additional stores and restaurants as well as several expansions open during this timeframe, but the building usage remained the same and were not required to pay additional impact fees.

We respectfully request City Council extend the impact fee waiver for an additional two (2) years to continue to provide additional opportunities for small businesses to locate in the historic Old Town Tomball area. We believe this is critical to its continued growth.

Respectfully submitted
THE HUTSON GROUP

A handwritten signature in black ink, appearing to read 'Bryan H. Hutson', with a long horizontal line extending to the right.

Bryan H. Hutson, JD
owner / attorney

cc: *Rodney K Hutson via email*

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

Approve Request by Tomball United Methodist Church for City Co-sponsorship and In-Kind Support for a Free Community Easter Egg Hunt at the Tomball Depot on Saturday, April 4, 2015

Background:

Tomball United Methodist Church is requesting the use of the Depot and the surrounding area to host a free community Easter Egg Hunt on Saturday, April 4, 2015 from 2:00 p.m. to 4:30 p.m.

The event, for families and their children, specifically children ages 1 through 12, will include:

- a 10,000 egg hunt, conducted by age groups;
- 2-3 large state-certified and insured inflatables (with generators);
- craft activities and games;
- free sealed bottles of water and juice boxes;
- a DJ playing family-appropriate music during the event;
- a meet-and-greet with the Easter Bunny and photo opportunities.

Tomball United Methodist Church is also requesting approval of the following:

1. City barricades on Saturday, April 4, to secure the area for the children and families;
2. Trash receptacles and trash pickup;
3. Electricity for the DJ;
4. EMS availability if needed (TUMC will need to coordinate with NWEMS);
5. Waiver of the rental fees for the Depot and Gazebo
6. Officer presence from Tomball Police Department (expected attendance is 2,500-3,000 people) .

The event will commence two hours after the Farmers Market, eliminating potential parking problems in the large parking lot being used by the Farmers Market from 9:00 a.m.-1:00 p.m. This event is approximately 3 hours long; the estimated cost of personnel and in-kind services should be \$400 for personnel support from the Public Works and Police Departments and waiver of the rental fees for the Depot and Gazebo. TUMC is providing a large number of volunteers to coordinate the event, as well as having a registered nurse on site at a clearly marked medical tent.

Tomball United Methodist Church's request falls within the scope of the City's Strategic Initiative to focus on building our economy by encouraging events in the downtown area that advance our community and tourism efforts.

Origination:

Summer Schiel, Director of Children's Ministry, Tomball United Methodist Church

Recommendation:

N/A

Funding:

Party(ies) responsible for placing this item on agenda:

Mike Baxter, Marketing Director, and Summer Schiel, TUMC

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

TUMC Request Letter
Community Easter Egg Hunt Map



TOMBALL UNITED METHODIST CHURCH

Community Easter Egg Hunt Proposal

Rev. Russell Hall
Senior Pastor
russellhall@tomballumc.org

Rebecca Jones
Director of Lay Ministry
rebecca.jones@tomballumc.org

Collin Powell
Youth Director
collin.powell@tomballumc.org

Summer Schiel
Children's Director
summer.schiel@tomballumc.org

Mike Welch
Choir Director
mike.welch@tomballumc.org

Chris Montes
Worship Leader
chrismontes@me.com

Barbara Sorensen
Communications Coordinator
barbara.sorensen@tomballumc.org

Isabel Weirich
Financial Secretary
isabel.weirich@tomballumc.org

Cindy Whitehead
Receptionist
cindy.whitehead@tomballumc.org

Christine Garner
Co-Director of SWDS
christine@swdayschool.com

Carrie Gracey
Co-Director of SWDS
carrie@swdayschool.com

Barbee Jones
Wedding Coordinator
barbee_bradbury@hotmail.com

Community events for children and their families are important to the people of Tomball United Methodist Church. We are interested in hosting a free community Easter egg hunt at the Tomball Depot on Saturday, April 4, 2015 from 2:00 PM – 4:30 PM. This event would be for families and their children, specifically children ages 1 through 12 years old, with an expected attendance of 2,500 – 3,000 people. The goal of this event is to promote intentional family time, provide a fun, safe activity to the children of Tomball, and to fulfill our church vision of "Loving Others". The event would include the following activities:

- A 10,000 egg Easter egg hunt
- 2-3 large bounce houses or inflatables (run by generators)
- Various craft activities and games
- Free sealed bottles of water and juice boxes
- A DJ to play family appropriate music during the event
- A meet and greet with the Easter Bunny with opportunities for pictures

The games and crafts would take place on the cement pad at the Depot. Bounce houses and games would be located near the Gazebo. We would like to utilize the area around the Gazebo to hand out free water and juice. We would like to rope off a large part of the grassy area at the Depot in order to have eggs spread out for the Easter egg Hunt.

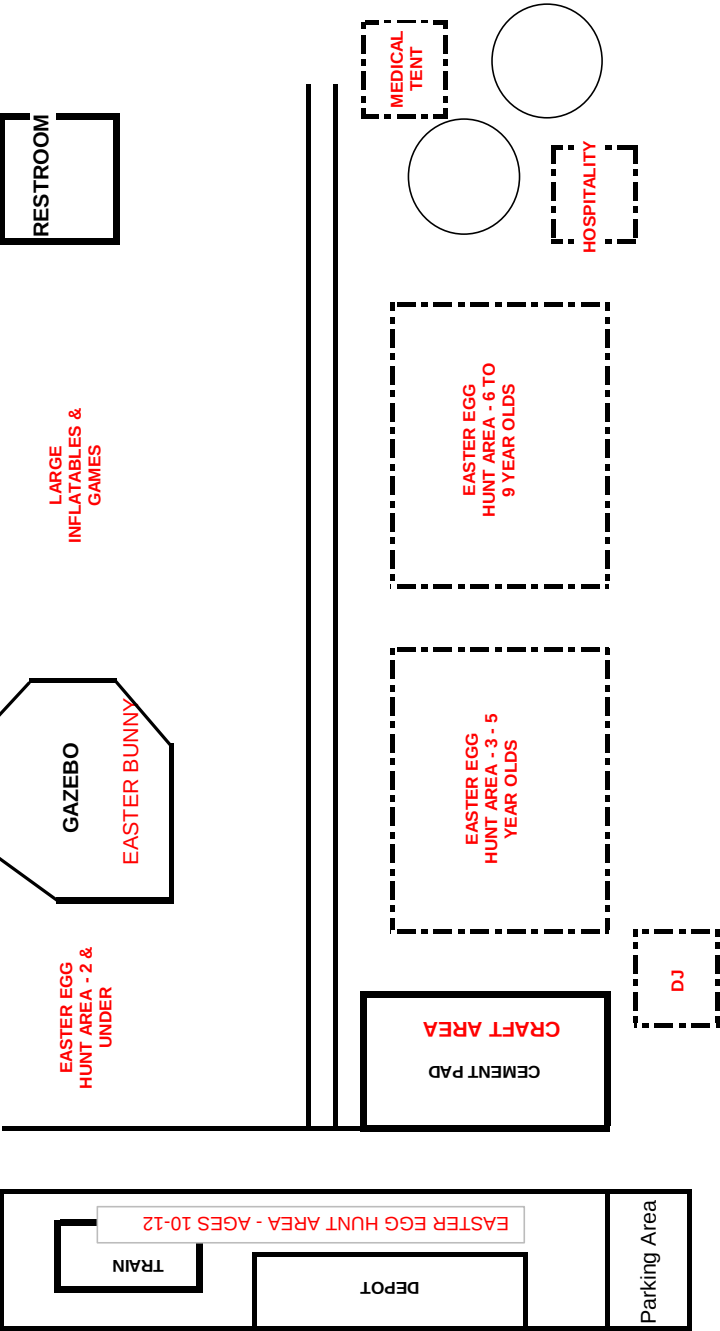
In order for this event to be a success, we will need the assistance from the following city departments:

- Street blockades will help secure the area for the children and their families that will be attending the event.
- Trash pickup at the Depot would be needed following the event.
- Electricity for the DJ
- EMS will be needed in addition to our medical plan. We plan on having a registered nurse on site at a clearly marked medical tent. She will be available to handle minor issues – scrapes, cuts, etc.
- Officer presence from Tomball Police Department – expected attendance for this event is 2,500 – 3,000 people.

We will be advertising the event throughout Tomball United Methodist Church, various day schools in the area, and in TISD Wednesday folders. We are planning for an event with an attendance of 1,500 children.

Thank you for considering our proposal. We look forward to working with the city of Tomball to help bring fun, safe family events to our city.

Summer Schiel
Director of Children's Ministry
Tomball United Methodist Church
281-351-1249
Summer.schiel@tomballumc.org
<http://www.tomballumc.org>



Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Conduct Public Hearing for Public Improvement District (PID) Number Five, Yaupon Trails

Background:

At our meeting on February 2, it was noted that Scott Bean of Hawes Hill Calderon, LLP had contacted us about placing an item on the agenda requesting that City Council call for a public hearing on March 2 to approve the proposed PID through adoption of the findings and creation resolutions.

In addition to several other attachments relating to the PID, the development agreement between the City and the developer is attached for your review. The development agreement describes the terms of the PID and the reimbursement of certain public infrastructure costs. Additionally, a map illustrating the development and location are included.

Scott Bean, our PID consultant from the firm of Hawes Hill Calderon, LLP, and Will Benson, the developer, will be at the meeting to answer any questions that anyone may have relating to the PID.

Origination:

Glenn Windsor, CPA, Finance Director/Treasurer

Recommendation:

N/A

Funding:**Party(ies) responsible for placing this item on agenda:**

Glenn Windsor, CPA, Finance Director/Treasurer

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing - Public Improvement District (PID) Number Five, Yaupon Trails
TPID5 Transmittal Letter
TPID5 Council Information
Signed Petitions - TPID5

TPID 5 Findings Resolution
TPID 5 Creation Resolution
TPID 5 Development Agreement
PID Primer

NOTICE OF PUBLIC HEARING
CITY OF TOMBALL, TEXAS

MONDAY, MARCH 2, 2015



6:00 P.M.

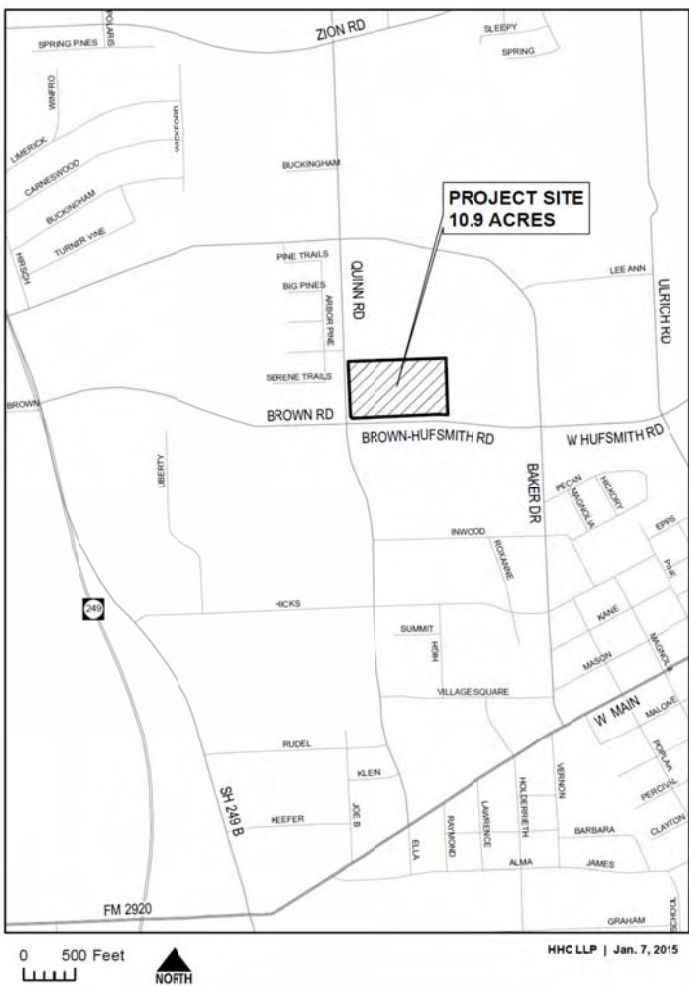
NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF TOMBALL TO CONSIDER THE
ADVISABILITY OF THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT TO MAKE CERTAIN
IMPROVEMENTS OVER CERTAIN PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF
TOMBALL.

In accordance with Chapter 372.005 Local Government Code the City Secretary has received petitions that request the establishment of a public improvement district (PID). The petitions and a legal description of the property are on file and open for public inspection in the office of City Secretary. A Public Hearing on the advisability of the improvements will be held by the City Council as follows:

TIME: Monday, March 2, 2015 at 6:00 p.m.
PLACE: City Council Chambers, 401 Market Street, Tomball, Texas 77375

GENERAL NATURE OF THE IMPROVEMENTS: The improvements are the construction of public utilities (water, sewer, gas & drainage), paving, landscaping, signage, and other public amenities, and related improvements within the PID. The estimated costs of the improvements, including financing, are \$1,750,000.00 over the life of the PID. The proposed method of assessment is by value, per lot, or per square foot of benefited property. The proposed apportionment of cost is 100% to the PID and 0% to the municipality as a whole.

BOUNDARIES: The boundaries of the proposed Public Improvement District are described in the below map. A full metes and bounds description is on file and open for public inspection in the office of the City Secretary.



Written and oral objections will be considered at the hearing. All interested persons are hereby notified of the described hearing, and of their right to appear and be heard on the matter.

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 9th day of February 2015 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meetings.

Doris Speer
Doris Speer
City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary’s office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

HAWES HILL CALDERON, LLP

VIA E-MAIL

February 5, 2015

To: Glenn Windsor, Finance Director
From: Scott Bean
Subject: **Proposed Tomball Public Improvement District Number Five**

Dear Mr. Windsor:

Per our recent discussions, please find attached all necessary items for the creation of the above-referenced public improvement district at the March 2nd City Council meeting. The resolutions and development agreement are modeled on the same forms used for previous public improvement districts. I have included a Council Item Information Sheet that explains the proposed PID and the assessment rate.

I will work with the City Secretary's office to have the public hearing notice run in the paper, and to make the attached petition available for public inspection.

For the March 2nd City Council Agenda, the order would be as follows:

1. Public Hearing
2. Consideration of Findings Resolution
3. Consideration of Creation Resolution
4. Consideration of the Development Agreement.

Thank you for your time and please contact me at (713) 595-1213 or by e-mail at sbean@hhcllp.com if you have any questions.

Attachments

1. Council Item Information Sheet
2. Petition with Boundary Description
3. Public Hearing Notice
4. Findings Resolution
5. Creation Resolution
6. Development Agreement

cc: Doris Speer, City Secretary

Council Item Information Sheet - Proposed Public Improvement District (PID) Number Five (Yaupon Trails)

Council Action Requested

It is requested that City Council call for a public hearing on March 2 to approve the proposed PID through adoption of the findings and creation resolutions. A development agreement between the City and Developer will also be presented for consideration. The development agreement describes the terms of the PID and the reimbursement of certain public infrastructure costs.

Area

Public Improvement District Number Five would be approximately 10.9460 acres representing the entirety of the proposed Yaupon Trails Subdivision, a subdivision that will be developed in one (1) section containing 37 lots. The land is located at the northeast corner of Quinn and Brown-Hufsmith Road as shown on the attached maps.

Purpose

The purpose of the PID is to assist the developer with public infrastructure costs. Through the PID, the developer will recover certain costs through an assessment on each lot. This arrangement is similar to a municipal utility district (MUD) and the MUD tax used for the same purpose.

Assessment Rate

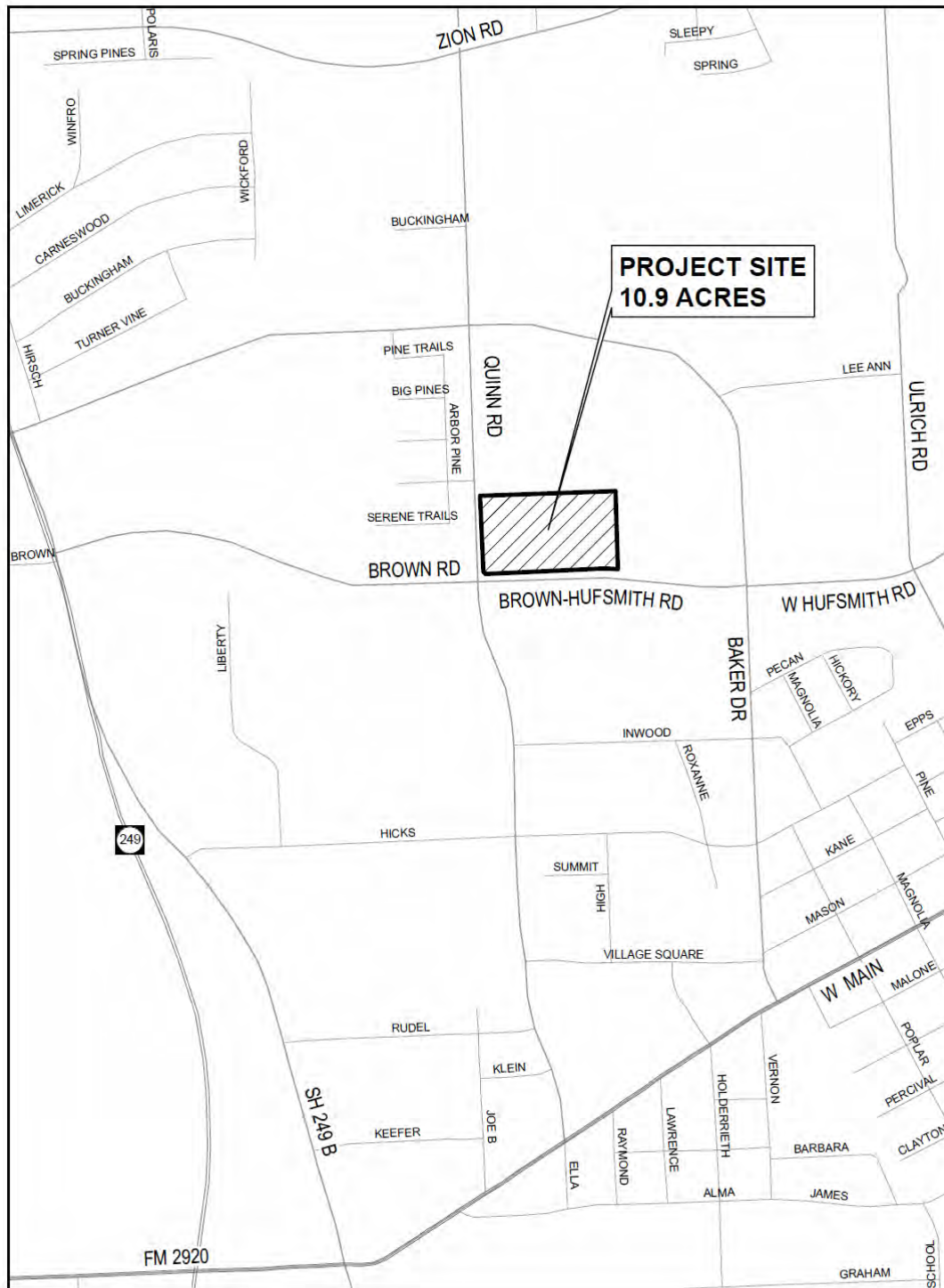
The PID assessment is expected to be approximately \$2,975 per lot per year, or the equivalent of an 85-cent tax rate on a \$350,000 home. Included in the annual payment are financing and interest costs allowing for a level annual payment over the proposed fifteen (15) year term of the PID. The principal amount of the assessment is payable at any time by the homeowners which would terminate the assessment, and an amortization schedule will be kept for each property covered by the assessment to track annual payments and the outstanding principal balance.

Disclosure

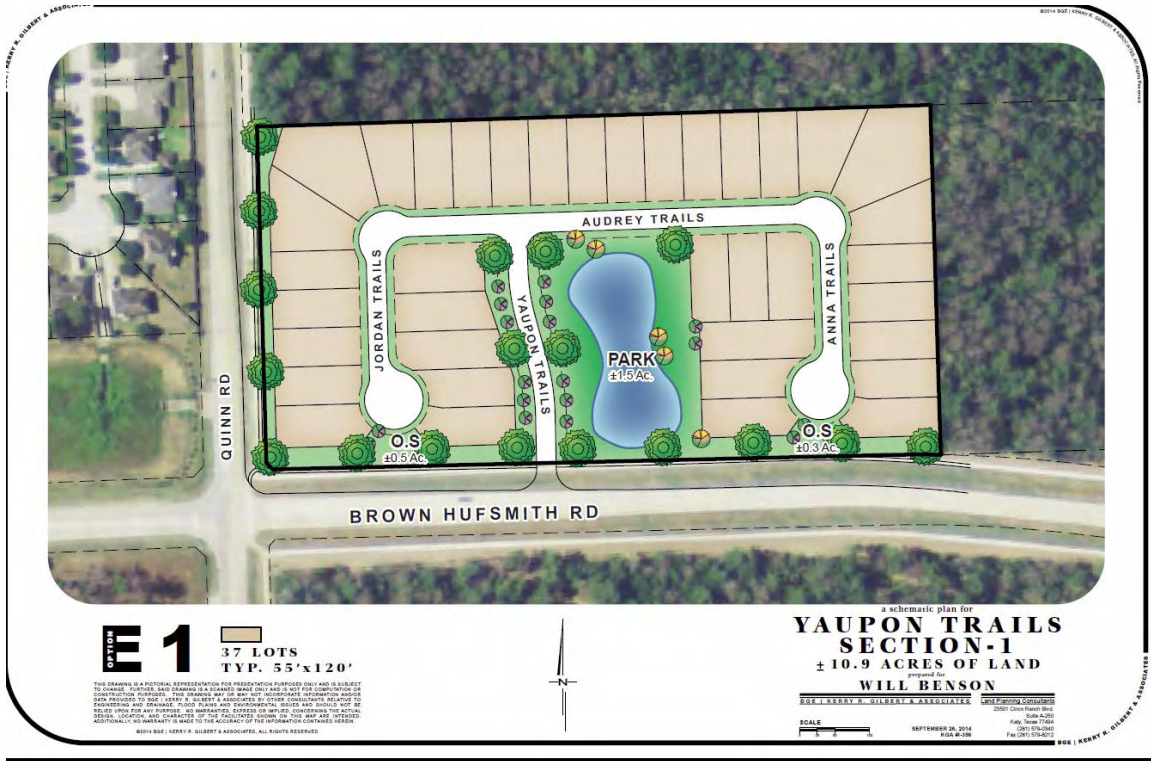
Proper disclosure notices detailing the assessment will be presented to potential homebuyers by the builders, and for acknowledgement at closing in the same manner as disclosure notices used in MUDs and other special districts with an ad valorem tax rate.

Future Actions

If created, the PID would still need City Council approval of the Service and Assessment Plan and all Assessment Rolls (i.e. no assessments can be implemented without City Council approval). The District Administrator will write the Service and Assessment Plans and formulate the Assessment Rolls for consideration by City Council. The District Administrator will work with the City and the Harris County Tax Assessor to have the assessments placed on the County tax bills. The PID assessments will be collected on an annual basis in the same manner as property taxes and transferred to a City-established PID revenue fund.



HHC LLP | Jan. 7, 2015



PETITION FOR THE CREATION OF A
PUBLIC IMPROVEMENT DISTRICT

THE STATE OF TEXAS

COUNTY OF HARRIS

TO: THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

The undersigned petitioner (the "Petitioner"), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, together with all amendments and additions thereto, petition this Honorable City Council to create a public improvement district ("District") in the territory described by metes and bounds in Exhibit A attached hereto (the "Land") within the City of Tomball, Texas (the "City"), and in support of this petition the Petitioner would present the following:

Section 1. Standing of Petitioner. The Petitioner is an owner of the Land within the District described below as determined by the current roll of the Harris County Appraisal District. The Petitioner, along with all other petitioners submitting petitions to the City in connection with the District, constitutes the owner of taxable property within the District sufficient to meet the requirements of Section 372.005(b), Texas Local Government Code.

Section 2. General nature of the proposed public improvements. The proposed public improvements include the construction of street paving, water, wastewater, gas and drainage facilities, parks and open spaces, public amenities, contingency provisions, engineering services, financing costs, and administrative and legal services for the proposed District.

Section 3. Estimated cost of the proposed public improvements. \$1,750,000.00.

Section 4. Boundaries. The proposed boundaries are described in the boundary description attached as Exhibit A.

Section 5. Method of assessment. The proposed method of assessment shall be based upon (i) an equal apportionment per lot or per square foot of property benefiting from the public improvements, as determined by the City Council, (ii) the *ad valorem* taxable value of the property benefiting from the improvements, or (iii) any combination thereof.

Section 6. Apportionment of cost. 100 percent of the cost of the proposed improvements shall be paid by assessment of the property owners within the District.

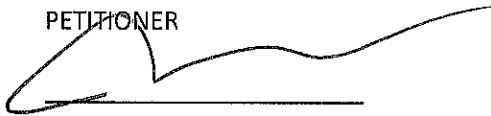
Section 7. Management of the District. The management of the District will be the ultimate responsibility of the City Council of the City; provided that, to the extent allowed by law, the City may initially contract with a private sector company or a City established local government corporation to carry out all or a part of such City responsibilities, as well as the day-to-day management and administration of the District.

Section 8. Concurrence of the Petitioner. The Petitioner signing this petition concurs in and requests the establishment of the District.

Section 9. Advisory board. An advisory board may be established to develop and recommend an improvement plan to the City Council.

This petition shall be filed with the City Secretary in support of the creation of the District by the City Council as herein provided.

PETITIONER



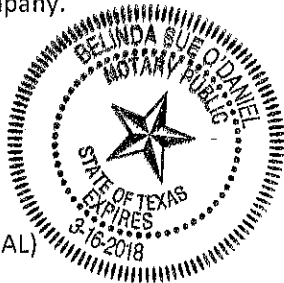
By: Yaupon Trails LTD LLC
 Jean Michael Rebesch, Sole Member

THE STATE OF TEXAS §

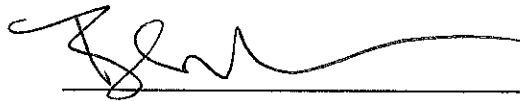
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COUNTY OF HARRIS §

This instrument was acknowledged before me on this 19 day of January, 2015, by Jean Michael Rebesch, Sole Member of Yaupon Trails, LTD LLC, on behalf of said limited liability company.



(NOTARY SEAL)



Notary, State of Texas

Exhibit A



Windrose Land Services, Inc

3200 Wilcrest Dr., Suite 325

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

Professional Development Consultants

Land Surveying, Platting, Project Management and GIS Services

Firm Registration No. 10108800

DESCRIPTION OF 10.9460 ACRES OR 476,809 SQ. FT.

A TRACT OR PARCEL CONTAINING 10.9460 ACRES OR 476,809 SQUARE FEET OF LAND, SITUATED IN THE JOSEPH HOUSE SURVEY, ABSTRACT NO. 34, HARRIS COUNTY, TEXAS, BEING ALL OF UNRESTRICTED RESERVE "E" OF FINAL PLAT OF LESLIE'S PARK, MAP OR PLAT THEREOF, RECORDED IN FILM CODE NO. 400005, HARRIS COUNTY MAP RECORDS (H.C.M.R.) AND BEING THE SAME TRACT OF LAND AS DESCRIBED IN THAT CERTAIN DEED OF TRUST BETWEEN LAR PROPERTIES LC AND PATRIOT BANK AS RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20130365283 AND BEING DESCRIBED AS FOLLOWS WITH ALL BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204, NAD 83:

BEGINNING AT A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING THE NORTH END OF A CUTBACK CORNER OF THE INTERSECTION OF THE EAST RIGHT OF WAY (R.O.W.) LINE OF QUINN ROAD (90 FEET WIDE AT THIS LOCATION) AND THE NORTH R.O.W. LINE OF BROWN-HUFFSMITH ROAD (100 FEET WIDE R.O.W.);

THENCE, NORTH 02 DEGREES 10 MINUTES 41 SECONDS WEST, ALONG SAID EAST R.O.W. LINE, A DISTANCE OF 480.73 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET ON THE SOUTH LINE OF RESTRICTED RESERVE "A" OF FINAL PLAT OF TOMBALL I.S.D. TRANSPORTATION CENTER, SECTION ONE, MAP OR PLAT THEREOF, RECORDED IN FILM CODE NO. 347073, H.C.M.R. AND MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

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THENCE, ALONG SAID CURVED R.O.W. LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 2,018.50 FEET, A CENTRAL ANGLE OF 02 DEGREES 13 MINUTES 53 SECONDS, AN ARC LENGTH OF 78.61 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 89 DEGREES 11 MINUTES 22 SECONDS WEST, 78.61 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET FOR A POINT OF TANGENCY;

SHEET 1 OF 2



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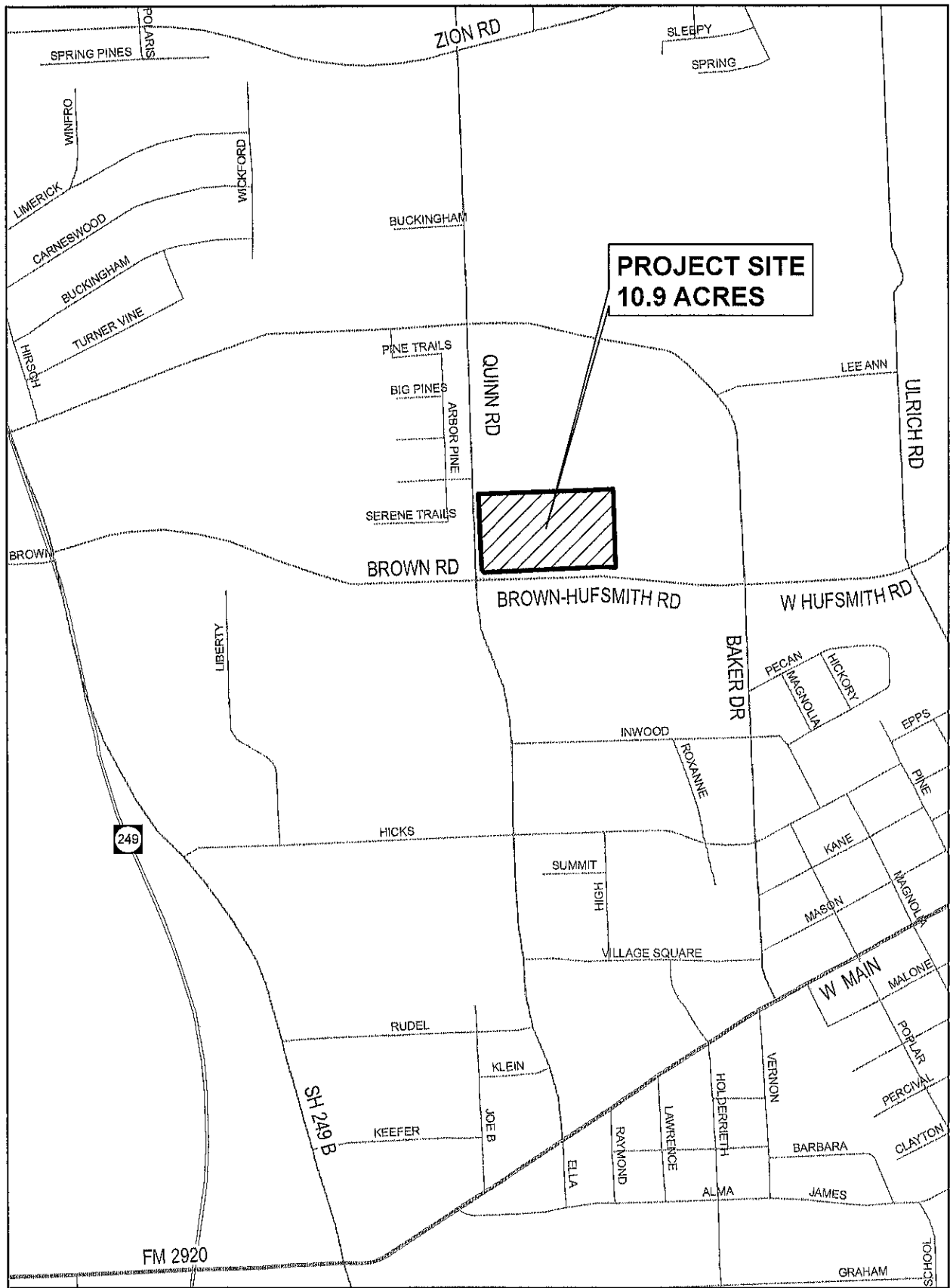
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MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS
51981

09/10/14
DATE



0 500 Feet
| | | |



HHC LLP | Jan. 7, 2015

City of Tomball Resolution No. _____

A RESOLUTION MAKING FINDINGS IN CONNECTION WITH THE PROPOSED PUBLIC IMPROVEMENT DISTRICT NUMBER FIVE RELATED TO THE ADVISABILITY OF THE IMPROVEMENTS, THE NATURE OF THE IMPROVEMENTS, THE ESTIMATED COST OF THE IMPROVEMENTS, THE BOUNDARIES OF THE PROPOSED DISTRICT, THE METHOD OF ASSESSMENT AND THE APPORTIONMENT OF COST BETWEEN THE DISTRICT AND THE CITY AS A WHOLE; AND MAKING OTHER FINDINGS RELATED TO THE DISTRICT.

WHEREAS, the City of Tomball City Council is authorized to create a public improvement district pursuant to Ch. 372 of the Texas Local government Code (the "Code") for the purpose described therein, and the City has received a petition from certain landowners within the City requesting the creation of a public improvement district; and

WHEREAS, notice of a public hearing to consider the advisability of establishing the proposed district was published in *The Tribune* a local newspaper of general circulation on February 9, 2015; the place, City Council Chambers, Tomball, Texas, the general nature of the proposed improvements; the boundaries of the proposed district; and the proposed method of assessment; and the proposed apportionment of cost between the district and the City as a whole; and

WHEREAS, written notice of the public hearing to consider advisability of establishing the district was sent timely to the current address, so reflected on the tax rolls, of the owners of property subject to assessment under the proposed district; and

WHEREAS, the public hearing was held with all interested parties having been given the opportunity to be heard; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:

Section 1. The City Council, having duly considered the petition submitted by property owners in the proposed district and the comments of those who made presentations at the public hearing on March 2, 2015, hereby finds as follows:

- (1) It will promote the interests of the City to create the Public Improvement District Number Five (the "District") under the provisions of Chapter 372, Texas Local Government Code for the purposes herein described.
- (2) It is advisable that the proposed improvement project be provided in the District and the City exercise the powers granted by Chapter 372, Texas Local Government Code, in connection with the establishment of the District, including the carrying out of the improvement project described below that will confer

special benefits on property in the District and to levy and collect a special assessment on property in the District, based on the benefit conferred by such project, to pay all of the costs of such improvements.

- (3) The general nature of the public improvements in the District is set forth below.
 - (a) The improvements include engineering and construction of water, wastewater, gas, storm sewer facilities, detention, paving, common areas and amenities, and other improvements, creation and administration costs, and interest.
- (4) The estimated costs of the public improvements over the life of the PID are a total of \$1.75 million.
- (5) The boundaries of the District are fully described in Exhibit A and B attached hereto.
- (6) The proposed methods of assessment is as follows:
 - (a) The assessment for the Public Improvements is proposed to be by value, lot, or according to the square footage of property without regard to improvements on the property.
- (7) The proposed method of apportionment of the cost of the improvements between the District and the City as a whole is as follows:
 - (a) The District will bear 100 percent of the costs of the percentage of the Public Improvements that will be reimbursed by assessment on the property.

Section 2. This Resolution shall be passed finally on the date of its introduction and shall take effect immediately upon its passage and approval.

PASSED AND ADOPTED this ____ day of _____, 2015.

Gretchen Fagan, Mayor

Approved as to form:

Attest:

WILLIAM A. OLSON, Jr., City Attorney

DORIS SPEER, City Secretary

EXHIBIT A



Windrose Land Services, Inc.

3200 Wilcrest Dr., Suite 325

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 481-1151

Professional Development Consultants

Land Surveying, Platting, Project Management and GIS Services

Firm Registration No. 10108800

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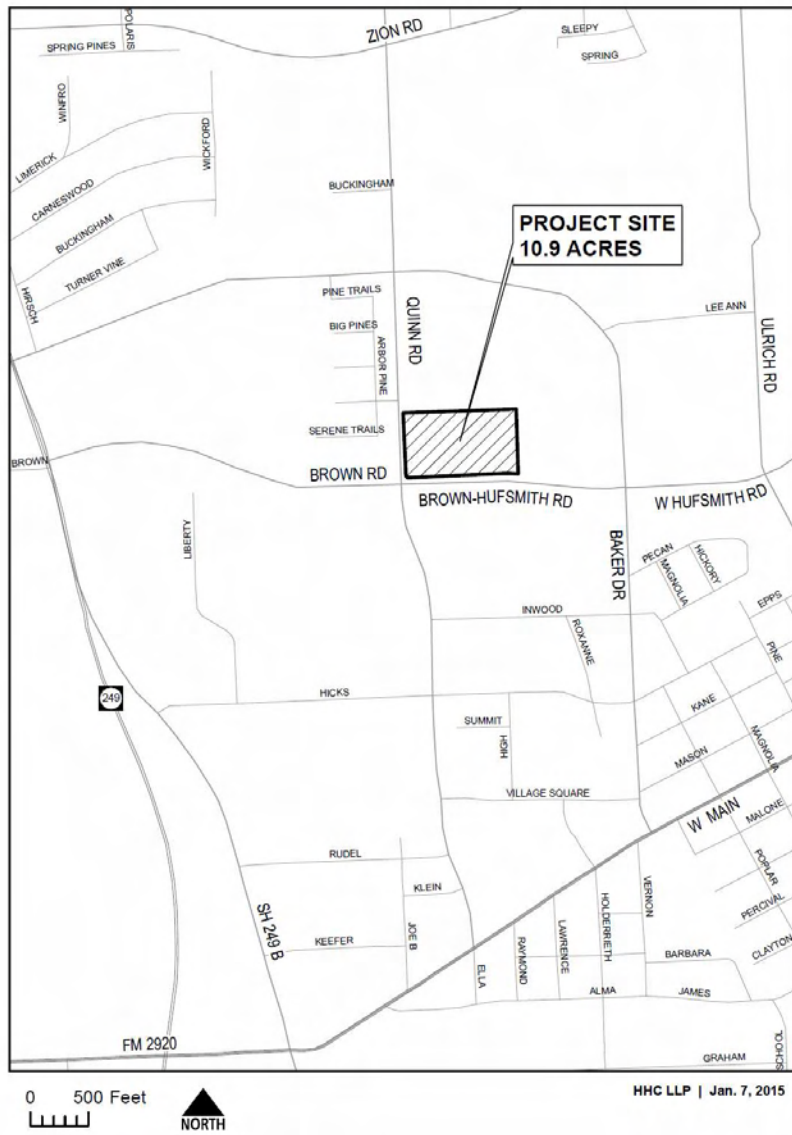
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MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS
51981

09/10/14
DATE

EXHIBIT B



City of Tomball Resolution No. _____

A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF THE PUBLIC IMPROVEMENT DISTRICT NUMBER FIVE IN THE CITY OF TOMBALL, TEXAS; AUTHORIZING PUBLICATION OF THIS RESOLUTION, PROVIDING FOR THE PREPARATION OF A SERVICE AND ASSESSMENT PLAN; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, the City of Tomball City Council is authorized to create a public improvement district pursuant to Ch. 372 of the Texas Local Government Code (the "Code") for the purpose described therein, and the City has received a petition from certain landowners within the City requesting the creation of a public improvement district; and

WHEREAS, the City Council held a public hearing on March 2, 2015, notice of which was published and mailed to property owners of the proposed district pursuant to Section 372.009 of the Code; and

WHEREAS, the City Council has made findings by resolution as to the advisability of the proposed improvement project, the nature of the improvements, the boundaries of the proposed public improvement district, the estimated cost, the method of assessment and the apportionment of cost between the improvement district and the City as a whole, as required by Chapter 372 of the Code; and

WHEREAS, the City Council has determined that it should proceed with the creation of the Public Improvement District Number Three and the provision of public improvements proposed to be provided thereby; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:

Section 1. The facts recited in the preamble hereto are hereby found to be true and correct.

Section 2. The Public Improvement District Number Five (the "District") is authorized to be and is hereby established as a public improvement district under the provisions of Chapter 372 of the Code over the land currently included within the boundaries of the City of Tomball, Texas, as more fully described in Exhibit A and B attached hereto, all in accordance with the findings made by the City Council in Section 1 of Resolution No. _____ passed and approved on March 2, 2015.

Section 3. The City Secretary is hereby directed to give notice of the authorization for establishment of the District by publishing the resolution once in at least one local newspaper of general circulation in the City. The authorization and establishment of the District shall be deemed to be effective upon the publication of the notice directed by this section.

Section 4. The City Council hereby directs the District Administrator to prepare a service and assessment plan for review and approval of the City Council in accordance with Chapter 372 of the Code.

Section 5. The District shall not provide any improvements until at least 20 days after authorization of the District takes effect. Such services shall not begin if during such period a petition is filed pursuant to section 372.010(c) of the Code.

Section 6. This Resolution shall be passed finally on the date of it's introduction and shall take effect immediately upon its passage and approval.

PASSED AND ADOPTED this 2nd day of March, 2015.

Gretchen Fagan, Mayor

Attest:

DORIS SPEER, City Secretary

Approved as to form:

WILLIAM A. OLSON, Jr., City Attorney

EXHIBIT A



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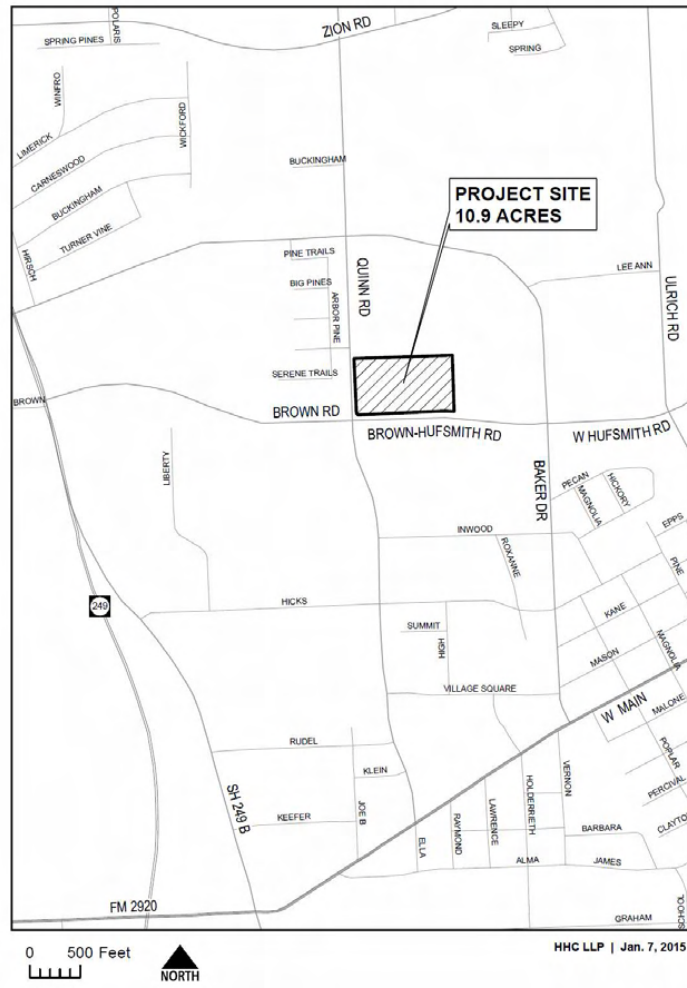
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MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS
51981

09/10/14
DATE

EXHIBIT B



DEVELOPMENT AGREEMENT

This Development Agreement (this “*Agreement*”) is made as of _____, 2015, by and between the **CITY OF TOMBALL**, a municipal corporation and a home-rule city in the State of Texas (the “*City*”), and **Yaupon Trails LTD LLC** a Texas limited liability company (the “*Developer*”).

RECITALS

WHEREAS, in accordance with the provisions of Chapter 372, TEX. LOCAL GOV’T CODE, and Resolution _____, the City Council of the City of Tomball created the Public Improvement District Number Five (the “*PID*”) pursuant to the petition for creation from the owner thereof; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City and the land within the PID to finance the construction of certain PID Improvements (defined below) and that an assessment against the benefited property within the PID should be made; and

WHEREAS, the Developer is the owner of certain property within the PID described in Exhibit A and B, and wishes to finance and construct certain PID projects; and

WHEREAS, the Developer intends to assist the City in the financing and construction of the PID Improvements, in exchange for the City’s agreement to reimburse the Developer in accordance with the terms of this Agreement; now, therefore,

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, the Developer contract and agree as follows:

ARTICLE 1 GENERAL TERMS

1.01 Definitions. The terms “*Agreement*,” “*City*,” “*Developer*,” “*PID*,” and “*PID Agreement*” have the meanings set forth in the preamble hereof, and the following terms shall have the meanings provided below, unless otherwise defined or the context clearly requires otherwise. For purposes of this Agreement, the words “shall” and “will” are mandatory, and the word “may” is permissive.

Act shall mean the Public Improvement District Assessment Act, Chapter 372, TEX. LOCAL GOV’T CODE, as amended.

Assessments shall mean assessments levied and collected in connection with the PID pursuant to the Act and the Plan, and deposited by the City into a PID Revenue Fund.

Developer Advances shall mean any funds advanced by the Developer pursuant to **Section 5.01**, and shall include any interest payable thereon.

Net Assessments shall mean the annual deposits of the Assessments into the PID Revenue Fund, less amounts reasonably required or anticipated to be required for the administration and operation of the PID in carrying out its responsibilities hereunder, including a reasonable operating reserve.

Parties or Party shall mean the City, and the Developer as parties to this Agreement.

PID Improvements shall mean the improvements described in **Article 3** hereof.

PID Revenue Fund shall mean the special fund established by the City and funded with payments made to the City pursuant to the PID.

Plan shall mean the final Service and Assessment Plan for the PID as approved by City Council in accordance with the Act.

Project shall mean the residential development within the PID projected to be carried out by the Developer described on Exhibit B.

1.02 Singular and plural; gender. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa. Likewise, any masculine references shall include the feminine, and vice versa.

ARTICLE 2 REPRESENTATIONS

2.01 Representations of the City. The City hereby represents that:

a. The City is duly authorized and is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The City has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the City, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

c. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

2.02. Representations of the Developer. The Developer hereby represents that:

a. The Developer is duly authorized, created and existing under the laws of the State of Texas, is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The Developer has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Developer or any provisions of the Developer's organizational documents, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Developer under any agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.

c. The Developer has sufficient capital to perform its obligations under this Agreement and will commence construction of the Project within eighteen (18) months of execution of this Agreement.

d. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

ARTICLE 3 THE PLAN AND PID IMPROVEMENTS

3.01 The PID Improvements. The PID Improvements are intended to enhance the proposed implementation of a development within the PID constituting the Project, as more fully described in the Plan.

3.02 PID Improvements description. The PID Improvements consist of acquisition, construction and development of the public improvements within the portion of the PID comprising the Project, as more fully described in Exhibit C, and as described in the Plan. The PID Improvements will be developed pursuant to a schedule consistent with the pace of development of the Project that is mutually agreeable to the Parties. The PID Improvements shall include all engineering, legal and other consultant fees and expenses related to such PID Improvements. The Developer shall be entitled to reimbursement of the project costs described in Exhibit C subject to the limitations contained in Section 3.03 of this agreement.

3.03 General terms of the Plan. The Plan has not yet been adopted by the City. The Parties anticipate that the Plan, at a minimum, will include the PID Improvements described above to serve the land within the PID, and such other facilities as may be agreed upon by the Parties, and that the Assessments shall be assessed in phases to affect only the portions of the PID directly benefited by the PID improvements to be financed by each Assessment. The Assessments shall be based upon the agreed-upon estimated costs of the Public Improvements as reflected in Exhibit C, plus those related costs as deemed reimbursable by the City; however, the Assessments in the Plan shall be formulated in a manner that generally conforms to the equivalent of a \$0.65 tax rate for properties covered by the Plan on a project-wide basis, and a maximum fifteen (15) year payment term for each property covered by the Plan.

3.04. Additional Projects. This Agreement does not apply to any projects not specifically included in the Plan and defined herein unless this Agreement is amended to provide for the design and construction of such additional projects.

ARTICLE 4

DUTIES AND RESPONSIBILITIES OF THE DEVELOPER

4.01 Construction manager. The Developer agrees to construct the PID Improvements and to provide and furnish, or cause to be provided and furnished, all materials and services as and when required in connection with the construction of the PID Improvements. The Developer will obtain all necessary permits and approvals from the City and all other governmental officials and agencies having jurisdiction, provide supervision of all phases of construction of the PID Improvements, provide periodic reports of such construction to the City upon request, and cause the construction to be performed in accordance with the Plan.

4.02 Design of the PID Improvements. The Developer shall prepare or cause to be prepared the plans and specifications for the PID Improvements. Prior to the commencement of construction or implementation of the PID Improvements, the plans and specifications must be approved by the City. The PID Improvements shall be designed in accordance with City standards applicable to similar public improvements within the City.

4.03 Construction contracts. The Developer shall prepare the PID Improvements construction contract documents to ensure that the contract documents are in accordance with the approved plans and specifications. The Developer shall comply with all laws and regulations regarding the bidding and construction of public improvements applicable to similar facilities constructed by the City, including without limitation any applicable requirement relating to payment, performance and maintenance bonds.

4.04. Construction and implementation of the PID Improvements. The Developer shall be responsible for the inspection and supervision of the construction and implementation of the PID Improvements.

a. The Developer shall commence construction of the PID Improvements in a timely fashion to coincide with the expected development of the Project.

b. Upon completion of a contract for the construction of the PID Improvements, the Developer shall provide the City with a final summary of all costs associated with such contract, and show that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors. Following completion of a construction contract, the Developer will call for inspection of the applicable PID Improvements by the City, and upon approval thereof as being in compliance with City standards relating thereto, the PID Improvements will be conveyed to the City, subject only to the right to reimbursement for Developer Advances with respect thereto.

ARTICLE 5

PROJECT FINANCING AND FUNDING

5.01. The Developer Advances.

a. In connection with the construction of the PID Improvements the Developer has determined are required to be constructed to serve the Project, the Developer agrees to provide sufficient funds as such become due for all costs thereof (the “Developer Advances”), such as costs of design, engineering, materials, labor, construction, and inspection fees arising in connection with the PID Improvements, including all payments arising under any contracts entered into pursuant to this Agreement.

b. Interest on each Developer Advance shall accrue at a rate one-half of one percent above the highest average interest rate reported by *The Bond Buyer* newspaper in a weekly bond index in the month before the date of this agreement, compounded annually, whether such costs, fees, or expenses are paid or incurred before or after the effective date of this Agreement. The interest rate shall not exceed eight percent (8%). Interest shall be calculated on the basis of a year of 360 days and the actual days elapsed (including the first day but excluding the last day) occurring in the period for which such interest is payable, unless such calculation would result in a usurious rate, in which case interest shall be calculated on the per annum basis of a year of 365 or 366 days, as applicable, and the actual days elapsed (including the first day but excluding the last day).

5.02. Repayment of Developer Advances.

a. In consideration of the development and construction of the PID Improvements, the City shall begin repaying the Developer Advances, and shall continue such repayment until repaid in full, on the earliest date that funds are available from the following source, and solely from such source:

(i) the Net Assessments, subject to the limitations set forth in **subsection (c)**.

b. the City shall reimburse the Developer for Developer Advances, plus interest, from Net Assessments from the Project accumulated in the PID Revenue Fund available in accordance with the priorities described in **Section 5.03** below.

c. At such time as funds are available to pay all or any portion of the Developer Advances made hereunder, the City shall hire a certified public accountant at the Developer’s expense to calculate the amount due the Developer and prepare and submit a report to the City certifying the amount due the Developer for the Developer Advances being repaid with interest calculated thereon. Such report shall be approved at the earliest practicable time, but not later than 90 days after submission by the Developer of the records required therefor. The City shall make payment to the Developer within 30 days of approval of the accountant’s report.

5.03. Priorities. Amounts deposited in the PID Revenue Fund shall be applied in the following order of priority (i) administrative and operating costs of the PID, (ii) payments to the Developer pursuant to **Section 5.02**, above.

ARTICLE 6 DEFAULT

6.01. Default.

a. If the City does not perform its obligations hereunder in substantial compliance with this Agreement, in addition to the other rights given the Developer under this Agreement, the Developer may enforce specific performance of this Agreement or seek actual damages incurred by the Developer for any such default.

b. If the Developer fails to commence or complete the PID Improvements or the Project in accordance with the terms of this Agreement, including the failure to fund Developer Advances or commence construction of the Project within eighteen (18) months, the City may terminate this Agreement with respect to its obligations to the Developer and shall be relieved of any obligation to reimburse the Developer for any Developer Advances or seek actual damages incurred for any such default.

c. The Party alleging default shall provide written notice to the other party of such default, and the defaulting party shall have 60 days to remedy the default prior to the declaration of any default hereunder.

ARTICLE 7 GENERAL

7.01. Inspections, audits. The Developer agrees to keep such operating records with respect to the PID Improvements and other activities contemplated by this Agreement and all costs associated therewith as may be required by the City, or by State and federal law or regulation. The Developer shall allow the City access to, and the City shall have a right at all reasonable times to audit, all documents and records in the Developer's possession, custody or control relating to the PID Improvements that the City deems necessary to assist the City in determining the Developer's compliance with this Agreement.

7.02 Developer operations and employees. All personnel supplied or used by the Developer in the performance of this Agreement shall be deemed contractors or subcontractors of the Developer and will not be considered employees, agents, contractors or subcontractors of the City for any purpose whatsoever. The Developer shall be solely responsible for the compensation of all such contractors and subcontractors.

7.03 Personal liability of public officials, legal relations. To the extent permitted by State law, no director, officer, employee or agent of the City shall be personally responsible for any liability arising under or growing out of the Agreement. THE DEVELOPER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS RESPECTIVE OFFICERS, REPRESENTATIVES, AND AGENTS FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED BY ANY PERSON, PERSONS, OR PROPERTY RESULTING FROM THE NEGLIGENT ACTS OF THE DEVELOPER, OR ANY OF ITS AGENTS, OFFICERS, OR REPRESENTATIVES IN PERFORMING ANY OF THE SERVICES AND ACTIVITIES UNDER THIS AGREEMENT.

7.04 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following addresses:

City of Tomball
c/o City Manager
401 Market Street
Tomball, Texas 77375

PID Contract Administrator
Hawes Hill Calderon, LLP
P.O. Box 22167
Houston, Texas 77092
Attn: Scott Bean

Yaupon Trails LTD LLC
c/o Jean Michael Rebescher
308 W. Parkwood, Suite 108-B
Friendswood, Texas 77546

Each party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by the City, or the Developer, as the case may be.

7.05 Amendments and waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the City and the Developer. No course of dealing on the part of the Parties, nor any failure or delay by one or more of the Parties, with respect to exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, except as otherwise provided in this section.

7.06 Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement.

7.07 Successors and assigns. All covenants and agreements contained by or on behalf of a Party in this Agreement shall bind its successors and assigns and shall inure to the benefit of the other Parties, their successors and assigns. The Parties may assign their rights and obligations under this Agreement or any interest herein, only with the prior written consent of the other Parties, and any assignment without such prior written consent, including an assignment by operation of law, is void and of no effect; provided that, the Developer may make a collateral assignment in favor of a lender without consent. This section shall not be construed to prevent

the Developer from selling lots, parcels or other portions of the Project in the normal course of business. If such assignment of the obligations by the Developer hereunder is effective, the Developer shall be deemed released from such obligations. If any assignment of the obligations by the Developer hereunder is deemed ineffective or invalid, the Developer shall remain liable hereunder.

7.08 Exhibits; titles of articles, sections and subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the parties and shall not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a section or subsection shall be considered a reference to such section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

7.09 Construction. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, as such laws are now in effect.

7.10 Entire Agreement. **THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

7.11 Term. This Agreement shall be in force and effect from the date of execution hereof for a term expiring on the date that the Developer Advances have been repaid in full, or January 1 of the year following the date the last assessment payment has been made in accordance with the PID Service and Assessment Plan and Assessment Roll(s).

7.12 Time of the essence. Time is of the essence with respect to the obligations of the Parties to this Agreement.

7.13 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent shall not be unreasonably conditioned, withheld or delayed.

7.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

7.15 Legal costs. If any Party hereto is the prevailing party in any legal proceedings against another Party brought under or with relation to this Agreement, such prevailing Party shall additionally be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing Party to such proceedings.

7.16 Further assurances. Each Party hereby agrees that it will take all actions and execute all documents necessary to fully carry out the purposes and intent of this Agreement.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of _____, 2015.

CITY OF TOMBALL, TEXAS

By: _____
Name: _____
Title: _____

Yaupon Trails LTD LLC

Jean Michael Rebescher, Sole Member

EXHIBIT A



Windrose Land Services, Inc

3200 Wilcrest Dr., Suite 325

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

Professional Development Consultants

Land Surveying, Platting, Project Management and GIS Services

Firm Registration No. 10108800

**DESCRIPTION OF
10.9460 ACRES OR 476,809 SQ. FT.**

A TRACT OR PARCEL CONTAINING 10.9460 ACRES OR 476,809 SQUARE FEET OF LAND, SITUATED IN THE JOSEPH HOUSE SURVEY, ABSTRACT NO. 34, HARRIS COUNTY, TEXAS, BEING ALL OF UNRESTRICTED RESERVE "E" OF FINAL PLAT OF LESLIE'S PARK, MAP OR PLAT THEREOF, RECORDED IN FILM CODE NO. 400005, HARRIS COUNTY MAP RECORDS (H.C.M.R.) AND BEING THE SAME TRACT OF LAND AS DESCRIBED IN THAT CERTAIN DEED OF TRUST BETWEEN LAR PROPERTIES LC AND PATRIOT BANK AS RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20130365283 AND BEING DESCRIBED AS FOLLOWS WITH ALL BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204, NAD 83:

BEGINNING AT A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING THE NORTH END OF A CUTBACK CORNER OF THE INTERSECTION OF THE EAST RIGHT OF WAY (R.O.W.) LINE OF QUINN ROAD (90 FEET WIDE AT THIS LOCATION) AND THE NORTH R.O.W. LINE OF BROWN-HUFFSMITH ROAD (100 FEET WIDE R.O.W.);

THENCE, NORTH 02 DEGREES 10 MINUTES 41 SECONDS WEST, ALONG SAID EAST R.O.W. LINE, A DISTANCE OF 480.73 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET ON THE SOUTH LINE OF RESTRICTED RESERVE "A" OF FINAL PLAT OF TOMBALL I.S.D. TRANSPORTATION CENTER, SECTION ONE, MAP OR PLAT THEREOF, RECORDED IN FILM CODE NO. 347073, H.C.M.R. AND MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 87 DEGREES 34 MINUTES 12 SECONDS EAST, ALONG THE SOUTH LINE OF SAID TOMBALL I.S.D. TRANSPORTATION CENTER, A DISTANCE OF 964.34 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING THE NORTHWEST CORNER OF A CALLED 9.997 ACRE TRACT TO TREK INVESTMENTS AS RECORDED IN H.C.C.F. NO. T-767809 AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; FROM WHICH A FOUND 5/8 INCH IRON ROD BEARS FOR REFERENCE NORTH 61 DEGREES 52 MINUTES 39 SECONDS EAST, 0.27 FEET;

THENCE, SOUTH 02 DEGREES 18 MINUTES 47 SECONDS EAST, A DISTANCE OF 499.92 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET ON THE CURVED NORTH R.O.W. LINE OF BROWN-HUFFSMITH ROAD (BASED ON A WIDTH OF 100 FEET) MARKING THE SOUTHWEST CORNER OF SAID 9.997 ACRE TRACT, THE WEST CORNER OF UNRESTRICTED RESERVE "F" OF SAID LESLIE'S PARK AND THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; FROM WHICH A FOUND 5/8 INCH IRON ROD BEARS FOR REFERENCE NORTH 13 DEGREES 05 MINUTES 16 SECONDS WEST, 0.28 FEET;

THENCE, ALONG SAID CURVED R.O.W. LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 2,018.50 FEET, A CENTRAL ANGLE OF 02 DEGREES 13 MINUTES 53 SECONDS, AN ARC LENGTH OF 78.61 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 89 DEGREES 11 MINUTES 22 SECONDS WEST, 78.61 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET FOR A POINT OF TANGENCY;

SHEET 1 OF 2



Windrose Land Services, Inc

3200 Wilcrest Dr., Suite 325

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

Professional Development Consultants

Land Surveying, Platting, Project Management and GIS Services

Firm Registration No. 10108800

THENCE, SOUTH 88 DEGREES 04 MINUTES 25 SECONDS WEST, CONTINUING WITH SAID NORTH R.O.W. LINE, A DISTANCE OF 873.68 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET FOR AN ANGLE POINT;

THENCE, SOUTH 87 DEGREES 34 MINUTES 18 SECONDS WEST, CONTINUING WITH SAID NORTH R.O.W. LINE, A DISTANCE OF 3.96 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING SOUTHERLY END OF A CUTBACK CORNER AND A SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 47 DEGREES 18 MINUTES 06 SECONDS WEST, A DISTANCE OF 13.11 FEET TO THE PLACE OF BEGINNING AND CONTAINING 10.9460 ACRES OR 476,809 SQUARE FEET OF LAND, AS SHOWN IN JOB NO. 51981 FILED IN THE OFFICES OF WINDROSE LAND SERVICES, INC.




MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS
51981

09/10/14
DATE

Description of Residential Development



EXHIBIT C

The PID Improvements

Storm & Detention - \$470,350.

Water Distribution - \$81,450.

Sanitary Distribution - \$125,800

Paving - \$341,625

Electrical, Gas, & Street Lights - \$62,500

TOTAL EST - \$1,081,725

Landscaping - \$103,000

Public Improvement District (PID) Primer

What is a PID?

A Public Improvement District (PID) is a public financing tool created under Chapter 372 of the Texas Local Government Code (TLGC). A PID allows a neighborhood or commercial area to apportion the cost of improvements and levy an assessment against property located in the PID, because that property is acquiring a special benefit because of the improvements. In other words, the property that will benefit the most from the improvement pays for the improvement--the burden is not shifted to the entire community. PIDs are intended to promote economic growth by providing the funding mechanism to construct necessary infrastructure or desired amenities that support new developments and encourage redevelopment.

PIDs are a component unit of the City and are governed by the City Council. The Council can create an advisory board for the PID if necessary, but final determinations on establishment, costs, assessments, and budgets must be made by the City Council.

What can a PID finance?

The PID can be designed to help finance the cost of a variety of development costs including:

- water, wastewater, health and sanitation, or drainage improvements;
- street and sidewalk improvements;
- mass transit improvements;
- parking improvements;
- library improvements;
- park, recreation and cultural;
- art installation;
- creation of pedestrian malls; or
- supplemental services. (advertising, extra public safety, etc.)

How does the PID finance the projects?

Project costs can be paid directly by the City or the developer can advance funds. The assessment fees levied on each property fund the project payments. Until the PID has accumulated adequate assessment fee revenue, the City can choose to issue bonds or use general tax revenues for initial payments or developer reimbursements.

Separate fund(s) are created by the City for the administration of the PID. The Council reviews and approves the assessments and district budget each year.

How is a PID created and dissolved?

PID Development Process (minimum steps required by Chapter 372, TLGC):

1. City, County, or affected property owner(s) initiates a petition for creation.
2. If needed, City Council appoints an advisory board to develop the PID improvement plan.
3. City Council holds a public hearing & passes a resolution on the need for the PID.
4. City Council authorizes the establishment of a PID by resolution.
5. Construction of improvements may begin 20-days after the PID's creation.
6. City Council adopts a Service and Assessment Plan (list of projects, costs, debt, & assessment fee) for at least five, ongoing years is developed.
7. City holds a public hearing on the assessment roll (lists each PID property's fee).
8. City Council adopts ordinance to levy the special assessment. (City will also create a special fund(s) for the PID).
9. If necessary, City Council holds public hearing and approves additional assessments to correct omissions or mistakes in the improvement costs.
10. If necessary, City Council holds public hearing & passes a resolution dissolving PID; however, the district remains in effect at least to meet its debt obligations.

Does the City have any additional requirements?

Yes. City of Tomball Administrative Policy No. 18 "Development Policy for Special Financing Districts" requires:

1. Residential Development Size--greater than 125 acres unless the average home value is greater than \$225, 000.
2. Annual Individual Assessment Limit--no more than the equivalent of a \$.50 tax rate on the assessed value of the property.
3. Assessment Term Limit--Not to exceed 10 years. First assessment due 3 years after levy or upon transfer of property from developer to home buyer whichever occurs first.
4. Developer Interest Limit--If bonds are sold, developer earned interest reimbursements will not exceed the net effective interest rate on bonds sold or 8% whichever is less. If bonds are not sold, reimbursement will be calculated according to an indexed-based formula (see Admin Policy 18) or 8% whichever is less.
5. Bidding Requirements--Developers must follow municipal bidding procedures (as outline in Chap 252 TLGC). All bids and awards of contracts must be approved by City Council.
6. District Administration--The City of Tomball will contract with an outside consultant to bill, collect, and track district assessments. This cost will be included in the Service & Assessment Plan and reimbursed from the district.

Other city policies, procedures, and good practices may also effect individual district creation or administration including approval of related contracts and agreements. For example, the City will usually need to enter into a Developer Agreement to detail the responsibilities & obligations of each party related to the Service and Assessment Plan.

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Appoint/Reappoint City of Tomball Representative to the 249 Partnership Board of Directors

Background:

In December 2012, Council appointed Lamar Casparis (one-year term), Gretchen Fagan (two-year term), Rick Pritchett (three-year term) and Steve Vaughan, as Tomball's alternative Board member, to serve as the City of Tomball's representatives to the 249 Partnership Board of Directors.

Gretchen Fagan's two-year term expired on December 31, 2014; the City Manager recommends the reappointment of Gretchen Fagan to serve a three-year term, expiring December 31, 2017. Mayor Fagan has been the former Chair and provided excellent service as a member of the 249 Partnership. The 249 Partnership is scheduled to meet March 19, 2015 at Magnolia City Hall.

As information, Rick Pritchett's three-year term will December 31, 2015; Lamar Casparis term will expire December 31, 2016, as will Steve Vaughan's term; Steve Vaughan was appointed to serve as Tomball's alternative Board member.

The other cities of Magnolia and Navasota will also be appointing their representatives to the 249 Partnership also.

Origination:

George Shackelford, City Manager

Recommendation:

N/A

Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

249 Partnership Bylaws - Approved 6/12/12

Bylaws of the 249 Partnership

An Unincorporated Texas Nonprofit Association

Table of Contents

- I. Name
- II. Purpose
- III. Offices and Agents
- IV. Membership
- V. Board of Directors
- VI. Officers
- VII. Committees
- VIII. Staff, Contracts, Salaries and Compensation
- IX. Conflict of Interest
- X. Fiscal Policies
- XI. Prohibited Acts
- XII. Miscellaneous
- XIII. Amendments

Article I – Name of Organization

The name of this organization shall be “249 Partnership”.

Article II – Purpose

The 249 Partnership was founded to address a regional need for an action-oriented and unified advocacy organization focused on current and future infrastructure issues. The 249 Partnership seeks to represent the interests of the Region’s stakeholders to decision making bodies and funding agencies.

Mission Statement—The 249 Partnership is a regional advocate for building a sound, unified transportation infrastructure promoting regional mobility and connectivity creating sustainable economic growth and improved quality of life.

Article III – Offices and Agents

Principal Office: The principal office of this organization shall be located at the following address: 29201 Quinn Road Suite B, Tomball TX 77375..

Article IV – Membership

Any individual person, organization, corporation or agency may be admitted to membership in the organization by the Board of Directors. Membership, other than Officers and Directors of the organization, shall be non-voting. The membership must be approved by majority vote of the Board of Directors

Article V – Board of Directors

General Powers: Management of the affairs of the organization shall be vested in the Board of Directors, comprised of 9 Directors, and executed by the Officers as defined in Article VI of these Bylaws.

The Board of Directors: Upon approval of these Bylaws by a two-thirds vote of a quorum of the organization's Interim Board of Directors, the then sitting Interim Board members of the organization shall serve as the Board of Directors until new Directors are appointed. The Board of Directors shall elect from its members Officers to carry on the business of the organization until a new Board of Directors is appointed at the next Annual Meeting in December, 2012. Members of the Board shall be appointed by the respective governing bodies of the Cities of Tomball, Magnolia, and Navasota, with the goal of including both public (Cities and Counties) and private (companies, entities and individuals) representation in each City's appointments to the Board of Directors. Each City may appoint three (3) Directors. For the initial appointments in December, 2012, each City must appoint one Director for a term of one (1) year, one for two (2) years, and one for three (3) years, with the term of each Director specifically designated. As each of these terms expires, replacement appointments will be for three (3) years, as provided in these Bylaws. Each City may also appoint one (1) Alternate Director to attend and vote at Board meetings in place of a Director not present at the meeting. While acting for a Director not in attendance at the Board meeting, the Alternate Director shall have all the same rights, privileges and powers as the absent Director would have if at the meeting. The appointment and term for an Alternate Director, including filling vacancies, shall be the same as for a Director, except Alternate Directors need not serve staggered terms.

Terms and Term Limits for Directors: Terms for serving as a Director shall be three (3) years.

Annual Meeting: The annual meeting of the Board of Directors shall be held during the month of December at which time corporate business shall be conducted. In the event that the meeting cannot be held in December, the Chair shall schedule the annual meeting as close as possible to the December date.

Regular Meetings: The Board of Directors may provide for regular meetings. Notice of regular meetings of the Board is required. The Officers, by majority vote, shall set the schedule for regular meetings.

Special Meetings: Special meetings of the Board of Directors may be called by or at the request of the Chair, or any two Officers, or any four Directors.

Notice: Board members will be notified of all meetings in writing delivered personally or sent by mail, e-mail message, or facsimile transmittal (FAX) at least five (5) business days in advance of the annual and regular meetings and at least forty-eight (48) hours in advance of a special meeting. Such notice shall state the place, day, and time of the meeting as well as the general purpose for which the meeting is called.

Quorum and Action: At all meetings of the Board, the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, provided each of the regional areas of Tomball, Magnolia, and Navasota is represented by a Director in attendance at the meeting. The act of a majority of the Directors at any meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by law or these Bylaws. If a quorum shall not be present at any meeting of

Directors, the Directors present may adjourn the meeting without notice other than announcement at the meeting until a quorum shall be present. Directors may designate ex-officio members to represent in their absence as they deem necessary.

Vacancies: Vacancies in the Board of Directors shall be filled, as soon as practical, for the balance of the term by the City that appointed the Director being replaced.

Compensation: Directors as such shall not receive any stated salaries for their services.

Article VI – Officers

The Officers of the Board shall consist of three (3) positions which will include a Chair, Vice Chair, and Secretary/Treasurer. The offices of Chair and Secretary/Treasurer may not be held simultaneously by the same person.

Meetings and Actions: The Officers should meet quarterly, unless special meetings are called by the majority of the Officers. Further, emergency meetings of the Officers can be held with notice sent by mail, e-mail message, or facsimile transmittal (FAX) at least eight (8) hours in advance of the scheduled meeting. At all Officer meetings, a quorum (a majority of the total Officers of the organization) of the Officers must be present to vote and the act of a majority of the Officers at any meeting at which a quorum is present shall be the act of the Officers.

Term: Officers will serve a term of two (2) years.

Vacancies: A vacancy in any office because of death, resignation, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term. In this event, the Officers shall call for nominations for the vacancy from the Board of Directors and schedule a special meeting of the Board of Directors to vote.

Chair: The Chair shall preside at all Board meetings, appoint committee members, and perform other duties as associated with the office. The Chair shall, by virtue of his office, be Chairman of the Board of Directors. The Chair or his/her designee shall present at each annual meeting of the organization an annual report of the work of the organization. The Chair shall see that all books, reports and certificates required by law are properly kept or filed. The Chair shall be one of the Officers who may sign the checks or drafts of the organization. The Chair shall have such powers as may be reasonably construed as belonging to the chief executive of any organization.

Vice Chair: The Vice Chair shall, in the event of the absence or inability of the Chair to exercise his/her office, become acting Chair of the organization with all the rights, privileges and powers as if he/she had been the duly elected Chair.

Secretary/Treasurer: It shall be the Secretary's duty to file any certificate required by any statute, federal or state. The Secretary/Treasurer shall give and serve all notices to members of this organization. The Secretary/Treasurer shall be the official custodian of the records and minutes of this organization. The Secretary/Treasurer may be one of the Officers required to sign the checks and drafts of the organization. The Secretary/Treasurer shall present to the membership at any meetings any communication addressed to him/her as Secretary/Treasurer of the organization. The Secretary/Treasurer shall attend to all correspondence of the organization and shall exercise all duties incident to the office of Secretary/Treasurer.

The Secretary/Treasurer shall have the care and custody of all monies belonging to the organization and shall be solely responsible for such monies or securities of the organization. The Secretary/Treasurer must be one of the Officers who shall sign checks or drafts of the organization. No special fund may be set aside that shall make it unnecessary for the Secretary/Treasurer to sign the checks issued upon it. The Secretary/Treasurer shall render at stated periods as the Board of Directors shall determine a written account of the finances of the organization and such report shall be physically affixed to the minutes of the Board of Directors of such meeting. The Secretary/Treasurer shall exercise all duties incident to the office of Secretary/Treasurer.

Advisory Board: An Advisory Board shall be formed to provide advice and guidance to the Officers of the Board of Directors. The Advisory Board shall consist of the County Judges (or his/her representative) of the respective counties represented by this organization. Additional members can be added to the Advisory Board by the majority vote of the Board of Directors. The Advisory Board shall be notified of all meetings of the Officers forty-eight (48) hours in advance of all meetings except for emergency meetings, in which the Advisory Board shall receive notice eight (8) hours before the emergency meeting. The Advisory Board is not a voting body of this organization.

Article VII – Committees

All committees of this organization shall be defined in scope and the members nominated to serve on the committee by the Officers and approved by the Board of Directors. Members of such committees may, but need not be, Directors. No committee shall have or exercise any authority of the Board of Directors in the management of the organization but only act in an advisory capacity to the Board of Directors. Committee chairs will be Directors but will not be Officers of the organization.

Article VIII – Staff, Contracts, Salaries and Compensation

The Board of Directors may hire and/or contract with and fix the compensation of any and all employees and contractors which they in their discretion may determine to be necessary for the conduct of the business of the organization.

Termination: Termination of employment and/or contract shall be at the by majority vote of the entire Board of Directors.

Article IX – Conflict of Interest

Any member of the Board who has a financial, personal, or official interest in, or conflict (or appearance of a conflict) with any matter pending before the Board, of such nature that it prevents or may prevent that member from acting on the matter in an impartial manner, will offer to the Board to voluntarily excuse him/herself and will vacate his seat and refrain from discussion and voting on said item.

Article X – Fiscal Policies

The fiscal year of the organization shall begin on the first day of January and end on the last day of December in each year.

Article XI – Prohibited Acts

As long as the organization is in existence, no member, Director, Officer, or committee member of the organization shall:

- (a) Do any act in violation of the Bylaws or a binding obligation of the organization.
- (b) Do any act with the intention of harming the organization or any of its operations.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the intended or ordinary business of the organization.
- (d) Receive an improper personal benefit from the operation of the organization.

Article XII– Miscellaneous

Lobbying: The Board of Directors, by majority vote, may choose to endorse or lobby for any issue, project, and/or subject which is to be determined within the goals and objectives of the organization. However, the organization will not participate in lobbying for or endorse or contribute to any particular candidate and/or his/her campaign.

Removal: The Board of Directors may vote to remove a Director or Officer at any time with cause by a majority of the Board or without cause by a super majority vote of the Board (2/3rds vote).

Article XIII – Amendments

These bylaws may be amended by a super majority vote of the Board (2/3rds vote), on the condition that at least one Director from each of the 3 areas represented votes for the amendment(s), and a copy of the proposed amendment(s) are provided to each Board member at least one week prior to said meeting.

Adopted and Approved by the Interim Board of Directors June 12, 2012 in Navasota TX.

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

Consideration and possible action to approve all of the following documents related to the Tomball Business and Technology Park, a Project of the Tomball Economic Development Corporation, and all actions necessary to give them effect, including filing Certificate of Formation with the Texas Secretary of State and filing Declaration of Covenants in the real property records:

- Certificate of Formation of Tomball B&TP Property Owners Association, Inc.
- Bylaws of the Tomball B&TP Property Owners Association, Inc.
- Declaration of Covenants, Restrictions, and Conditions for the Tomball Business and Technology Park

Background:

At its meeting on November 18, 2014, the TEDC Board of Directors approved the Covenants, Restrictions, and Conditions for the Tomball Business & Technology Park. The purpose of the Covenants is to ensure the orderly development and use of the Property by providing development and maintenance standards that encourage high quality, well designed improvements. The Covenants contain prohibited uses, development standards, architectural review authority, a time limit for construction of improvements, and annual assessments to fund the anticipated operating and maintenance expenses of the Tomball Business & Technology Park Property Owners Association.

The Association will be a separate nonprofit corporation, registered with the Secretary of State, with the powers and duties necessary for the administration, management, and enforcement of the Covenants. The TEDC Board of Directors shall serve as the Directors of the Association, until a future election is held by the members of the association to establish the Association Board of Directors. The membership of the Property Owners Association, its duties and powers are detailed in the attached Bylaws of the Tomball B&TP Property Owners Association. The Certificate of Formation and Bylaws of the Association were approved by the TEDC Board of Directors on August 20, 2013.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Approve filing the Certificate of Formation with the Texas Secretary of State. Approve the Bylaws of the Tomball Business and Technology Park Property Owners Association. Approve the Declaration of Covenants, Restrictions, and Conditions for the Tomball Business and Technology Park and their filing in the real property records of Harris County, Texas.

Funding: Yes

Account Number: Miscellaneous

Party(ies) responsible for placing this item on agenda:

Kelly Violette, Executive Director Tomball Economic Development Corporation

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

- Certificate of Formation_r
- Bylaws of the Tomball B&TP Property Owners Association
- Declaration of Covenants, Restrictions, and Conditions
- Exhibit A Recorded Plat

Form 202—General Information
(Certificate of Formation – Nonprofit Corporation)

The attached form is drafted to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.

Commentary

A nonprofit corporation is governed by titles 1 and 2 of the Texas Business Organizations Code (BOC). Title 1, chapter 3, subchapter A, of the BOC governs the formation of a nonprofit corporation and sets forth the provisions required or permitted to be contained in the certificate of formation. Nonprofit corporations may be incorporated for any lawful purpose. Corporations formed for the purpose of operating a nonprofit institution, including an institution devoted to a charitable, benevolent, religious, patriotic, civic, cultural, missionary, education, scientific, social, fraternal, athletic, or aesthetic purpose, may be formed and governed only as a nonprofit corporation under the BOC and not as a for-profit corporation. In a nonprofit corporation, no part of the income of the corporation may be distributed to a member, director or officer of the corporation.

Please note that this form cannot be used to form a corporation authorized by or under a special state statute, such as a water supply corporation, a cemetery corporation or an industrial development corporation.

Taxes: Nonprofit corporations are subject to a state franchise tax and federal income taxes unless an exemption from those taxes is granted. For franchise tax information visit the web site of the Comptroller of Public Accounts at www.window.state.tx.us/taxinfo/franchise/index.html. For information on state tax exemption, including applications and publications, visit the Comptroller's Exempt Organizations web site at www.window.state.tx.us/taxinfo/exempt/index.html or call (800) 252-5555. For information relating to federal income tax filing requirements, exemptions, federal employer identification numbers, tax publications and forms call (800) 829-3676 or visit the Internal Revenue Service (IRS) web site at www.irs.gov.

This form does not include any additional statements or provisions that the Texas Comptroller of Public Accounts or the IRS may require as a condition to granting a tax-exempt status. Please refer to IRS publication 557, "Tax-Exempt Status for Your Organization," and Comptroller publication 96-1045, "Guidelines to Texas Tax Exemptions," for further information before completing this form.

Instructions for Form

- **Article 1—Entity Name and Type:** Provide a corporate name. An organizational designation may be used, but is not required. Under section 5.053 of the BOC, if the name chosen is the same as, deceptively similar to, or similar to the name of any existing domestic or foreign filing entity, or any name reservation or registration filed with the secretary of state, the document cannot be filed. The administrative rules adopted for determining entity name availability (Texas Administrative Code, title 1, part 4, chapter 79, subchapter C) may be viewed at www.sos.state.tx.us/tac/index.shtml. If you wish the secretary of state to provide a preliminary determination on name availability, you may call (512) 463-5555, dial 7-1-1 for relay services, or e-mail your name inquiry to corpinfo@sos.state.tx.us. A final determination cannot be made until the document is received and processed by the secretary of state. Do not make financial expenditures or execute documents based

on a preliminary clearance. Also note that the preclearance of a name or the issuance of a certificate of formation under a name does not authorize the use of a name in violation of another person's rights to the name.

- **Article 2—Registered Agent and Registered Office:** The registered agent can be either (option A) a domestic entity or a foreign entity that is registered to do business in Texas or (option B) an individual resident of the state. The corporation cannot act as its own registered agent; do not enter the corporate name as the name of the registered agent.

Consent: Effective January 1, 2010, a person designated as the registered agent of an entity must have consented, either in a written or electronic form, to serve as the registered agent of the entity. Although consent is required, a copy of the person's written or electronic consent need not be submitted with the certificate of formation. *The liabilities and penalties imposed by sections 4.007 and 4.008 of the BOC apply with respect to a false statement in a filing instrument that names a person as the registered agent of an entity without that person's consent.* (BOC § 5.207)

Office Address Requirements: The registered office address must be located at a street address where service of process may be personally served on the entity's registered agent during normal business hours. Although the registered office is not required to be the entity's principal place of business, the registered office may not be solely a mailbox service or telephone answering service (BOC § 5.201).

- **Article 3—Management:** Except as provided by section 22.202 of the BOC, the affairs of a nonprofit corporation are governed by a board of directors.

Board of Directors: The board of directors may be designated by any name appropriate to the customs, usages, or tenets of the corporation. If managed by a board of directors, three directors are required. A director must be a natural person; there are no residency requirements for directors. Set forth the name of the individual in the format specified. Do not use prefixes (e.g., Mr., Mrs., Ms.). Use the suffix box only for titles of lineage (e.g., Jr., Sr., III) and not for other suffixes or titles (e.g., M.D., Ph.D.).

Please note that a document on file with the secretary of state is a public record that is subject to public access and disclosure. When providing address information for directors, use a business or post office box address rather than a residence address if privacy concerns are an issue.

Managed by Members: A nonprofit corporation is considered to have vested the management of the corporation in the board of directors unless otherwise provided in the certificate of formation. This certificate of formation also may be used to create a nonprofit corporation that is managed solely by its members. If management of the corporation is to be vested in the nonprofit corporation's members, a statement to that effect must be included in the certificate. If the nonprofit corporation is to be governed *solely* by its members, check the appropriate statement and proceed to Article 4 of this form. *The fact that the individuals named on the board of directors are also members of the nonprofit entity does not mean that the corporation is governed by its members.*

Article 4—Members: If the corporation will not have members, the certificate of formation must include a statement to that effect. If management of the affairs of the corporation is vested in its members, you also must check statement A in Article 4 of this form. Checking statement B in Article 4 is inconsistent with a corporation that is managed by its members and will result in a rejection of the instrument.

- **Article 5—Purpose:** State the purpose of the corporation in the space provided. A nonprofit corporation may be formed for any lawful purpose or purposes not expressly prohibited under title 1, chapter 2, or title 2, chapter 22, of the BOC, which may be stated as “any or all lawful purposes” in the space provided. While the BOC allows formation with a general purpose, please note that other laws, including the Texas Tax Code and the Internal Revenue Code, may require that the certificate of formation include a more specific purpose statement as a basis for granting a license or a tax-exempt or tax-deductible status. An additional text area is provided to include any additional language or additional provisions that may be needed. In addition, the “Supplemental Provisions/Information” section may be used if the additional text area provided in this section is not sufficient.
- **Supplemental Provisions/Information:** Additional space has been provided for additional text to an article within this form or to provide for additional articles to contain optional provisions. This space also may be used to provide for additional statements or provisions needed by the Texas Tax Code or Internal Revenue Code as a basis for granting a tax-exempt or tax-deductible status.

Manner of Distribution: Section 22.304 of the BOC provides that after all liabilities and obligations of the corporation in the process of winding up are paid, satisfied, and discharged in accordance with chapter 11 of the BOC, the property of the corporation shall be applied and distributed as follows:

- Property held by the corporation on a condition requiring return, transfer, or conveyance because of the winding up or termination shall be returned, transferred, or conveyed in accordance with that requirement; and
- The remaining property shall be distributed only for tax-exempt purposes to one or more organizations that are exempt under Section 501(c)(3), or described by Section 170(c)(1) or (2) of the Internal Revenue Code as provided in a plan of distribution adopted by the corporation under the BOC unless the certificate of formation provides otherwise.

If the corporation is not applying and distributing its property in accordance with section 22.304, the certificate of formation must include a statement describing the manner of distribution in the Supplemental Provisions/Information section of this form. If the space provided is not sufficient, an addendum may be included and attached to this form.

Duration: Pursuant to section 3.003 of the BOC, a Texas nonprofit corporation exists perpetually unless provided otherwise in the certificate of formation. If formation of a corporation with a stated period of duration is desired, use the “Supplemental Provisions/Information” section of this form to provide for a limited duration.

- **Organizer:** Only one organizer is required for the formation of a nonprofit corporation. An organizer may be any person having the capacity to contract for the person or for another; that is, a natural person 18 years of age or older, or a corporation or other legal entity. There are no residency requirements for an organizer.
- **Effectiveness of Filing:** A certificate of formation becomes effective when filed by the secretary of state (option A). However, pursuant to sections 4.052 and 4.053 of the BOC the effectiveness of the instrument may be delayed to a date not more than ninety (90) days from the date the instrument is signed (option B). The effectiveness of the instrument also may be delayed on the occurrence of a future event or fact, other than the passage of time (option C). If option C is selected, you must state

the manner in which the event or fact will cause the instrument to take effect and the date of the 90th day after the date the instrument is signed. In order for the certificate to take effect under option C, the entity must, within ninety (90) days of the filing of the certificate, file with the secretary of state a statement regarding the event or fact pursuant to section 4.055 of the BOC.

On the filing of a document with a delayed effective date or condition, the computer records of the secretary of state will be changed to show the filing of the document, the date of the filing, and the future date on which the document will be effective or evidence that the effectiveness was conditioned on the occurrence of a future event or fact. In addition, at the time of such filing, the status of the entity will be shown as “in existence” on the records of the secretary of state.

- **Execution:** The organizer must sign the certificate of formation, but it does not need to be notarized. However, before signing, please read the statements on this form carefully. The designation or appointment of a person as registered agent by an organizer is an affirmation that the person named in the certificate of formation has consented to serve in that capacity. (BOC § 5.2011, effective January 1, 2010)

A person commits an offense under section 4.008 of the BOC if the person signs or directs the filing of a filing instrument the person knows is materially false with the intent that the instrument be delivered to the secretary of state for filing. The offense is a Class A misdemeanor unless the person's intent is to harm or defraud another, in which case the offense is a state jail felony.

- **Payment and Delivery Instructions:** The filing fee for a certificate of formation for a nonprofit corporation is \$25. Fees may be paid by personal checks, LegalEase debit cards, or American Express, Discover, MasterCard, and Visa credit cards. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7 percent of the total fees.

Submit the completed form in duplicate along with the filing fee. The form may be mailed to P.O. Box 13697, Austin, Texas, 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. If a document is transmitted by fax, credit card information must accompany the transmission (Form 807). On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate copy was provided as instructed.

- **Registered Agent/Office:** A corporation is required to maintain a registered agent and a registered office address in Texas. If the registered agent or registered office address changes, it is important to file a statement with the secretary of state to effect a change to the certificate of formation. Failure to maintain a registered agent and registered office may result in the involuntary termination of the corporation.
- **Periodic Reports:** Under section 22.357 of the BOC, the secretary of state may require a nonprofit corporation to file a report not more often than once every four years. The secretary of state will send notice to the corporation at its registered office as to the time the report is due. Failure to file the report when requested to do so by the secretary will result in the involuntary termination of the corporation.
- **Information for Public Inspection:** Records, books and annual reports of the corporation's financial activity are required to be maintained at the registered office or principal office for three years after the close of a fiscal year. The corporation shall make those documents available to the

public for inspection and copying during regular business hours and may charge a reasonable fee for preparing a copy of those records. Failure to maintain those records, prepare an annual report or make the record or report available to the public is a Class B misdemeanor. These provisions do not apply to those corporations exempted under section 22.355 of the BOC. Also note that a nonprofit corporation supported in whole or in part by public funds or that spends public funds is considered a governmental body under chapter 552 of the Government Code (Public Information Act) and thus subject to the provisions of that Act regarding access to public information. In addition, a property owner's association may also be subject to the Public Information Act pursuant to section 552.0035 of the Government Code.

Revised 05/11

Form 202
(Revised 05/11)

Submit in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555
FAX: 512/463-5709
Filing Fee: \$25



This space reserved for office use.

Certificate of Formation
Nonprofit Corporation

Article 1 – Entity Name and Type

The filing entity being formed is a nonprofit corporation. The name of the entity is:

TOMBALL B&TP PROPERTY OWNERS ASSOCIATION, INC.

Article 2 – Registered Agent and Registered Office

(See instructions. Select and complete either A or B and complete C.)

☒ A. The initial registered agent is an organization (cannot be entity named above) by the name of:

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

OR

☐ B. The initial registered agent is an individual resident of the state whose name is set forth below:

First Name	M.I.	Last Name	Suffix
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C. The business address of the registered agent and the registered office address is:

401 MARKET STREET	TOMBALL	TX	77375
Street Address	City	State	Zip Code

Article 3 – Management

The management of the affairs of the corporation is vested in the board of directors. The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of members or until their successors are elected and qualified are as follows:

A minimum of three directors is required.

Director 1				
GRETCHEN		FAGAN		
First Name	M.I.	Last Name	Suffix	
401 MARKET STREET	TOMBALL	TX	77375	USA
Street or Mailing Address	City	State	Zip Code	Country

Director 2				
STEVEN	L.	VAUGHAN		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
401 MARKET STREET	TOMBALL	TX	77375	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

Director 3				
WILLIAM	E.	SUMNER	JR.	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
401 MARKET STREET	TOMBALL	TX	77375	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

OR

☐ The management of the affairs of the corporation is to be vested in the nonprofit corporation's members.

Article 4 – Membership

(See instructions. Do not select statement B if the corporation is to be managed by its members.)

☒ A. The nonprofit corporation shall have members.

☐ B. The nonprofit corporation will have no members.

Article 5 – Purpose

(See instructions. This form does not contain language needed to obtain a tax-exempt status on the state or federal level.)

The nonprofit corporation is organized for the following purpose or purposes:

To implement and manage the plan for orderly development and use of the property known as Tomball Business & Technology Park; to exercise the powers and privileges and perform the duties and obligations of the corporation as set forth in certain covenants recorded or to be recorded in the public records of Harris County, Texas, as such covenants may be amended from time to time; and to collect and disburse the assessments and charges thereof; and for any and all other lawful purposes.

The following text area may be used to include any additional language or provisions that may be needed to obtain tax-exempt status.

Supplemental Provisions/Information

(See instructions.)

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

The membership of the Corporation shall be determined as provided in the Bylaws of the Corporation, and such Bylaws shall define the voting rights, powers and privileges of the members.

Organizer

The name and address of the organizer:

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

Name

401 MARKET STREET

TOMBALL

TX

77375

Street or Mailing Address

City

State

Zip Code

Effectiveness of Filing (Select either A, B, or C.)

- A. ☒ This document becomes effective when the document is filed by the secretary of state.
- B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: _____
- C. ☐ This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90th day after the date of signing is: _____

The following event or fact will cause the document to take effect in the manner described below:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: _____

Signature of organizer

TOMBALL ECONOMIC DEVELOPMENT CORPORATION
BY GRETCHEN FAGAN, ITS PRESIDENT

Printed or typed name of organizer

**BYLAWS OF THE
TOMBALL B&TP PROPERTY OWNERS ASSOCIATION INC.**

These Bylaws govern the affairs of the TOMBALL B&TP PROPERTY OWNERS ASSOCIATION INC. (the "Association"), Texas nonprofit corporation created pursuant to the Texas Business Organizations Code, as amended, and other applicable laws.

**ARTICLE I
PURPOSE
Public Purpose**

- 1.01. The Association is incorporated as a nonprofit corporation for the purposes set forth in the Certificate of Formation. Its purpose is to exercise the powers and privileges and to perform the duties and obligations of the Association as set forth in certain covenants (the "Declaration") recorded or to be recorded in the Public Records of Harris County, Texas, as such Declaration may be amended from time to time, and to collect and disburse the assessments and charges thereof.

Powers

- 1.02. In the fulfillment of its corporate purpose, the Association, acting through its Board, has the powers and duties necessary for the administration of the affairs of the Association as may be required or permitted by the Declaration, the Certificate of Formation, these Bylaws and other applicable law, subject to the limitations prescribed herein.

**ARTICLE II
OFFICES
Principal Office**

- 2.01. The Association's principal office in Texas is located at 401 Market Street, Tomball, Texas, 77375.

Registered Office and Agent

- 2.02. The Association shall maintain a registered office and registered agent in Texas. The registered office may, but need not, be identical with the Association's principal office in Texas. The Board of Directors may change the registered office and the registered agent as permitted by law.

ARTICLE III
MEMBERS; BOARD OF DIRECTORS
Members

- 3.01 Every Owner is a Member of the Property Owners Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Property Owners Association has two (2) classes of voting Members:
- a. Class A. Class A members have one (1) vote per Lot plus one (1) vote for each forty thousand (40,000) square feet within each lot owned.
 - b. Class B. The Class B Member is the Declarant and has three (3) votes for each Lot owned plus one (1) vote for each forty thousand (40,000) square feet within each lot owned. The Class B Membership ceases and converts to Class A Membership on the earlier of
 - i. when the Class A Members' votes exceed the total of Class B Member's votes; or
 - ii. December 31, 2063.

Meetings

- 3.02 Members meetings will be held at the Property Owners Association's Principal Office or at another place designated by the Board. The first Members meeting will be held within twelve (12) months after the formation of the Property Owners Association. Subsequent regular annual Members meetings will be held on the second Tuesday in January. The President may call special meetings. The President must call a special meeting if directed by the Board or by a petition signed by twenty percent (20%) of the Class A Voting Members. Notice of meeting may be given by posting in compliance with the Texas Open Meeting Act. A person or persons who own more than half of the designated lots in existence at the time of the meeting constitutes a quorum for a Members meeting. No person may vote by proxy.

Management of the Association

- 3.03. The affairs of the Association shall be managed by the Board of Directors.

Number, Qualifications and Service of Directors

- 3.04. The business of the Association and all corporate powers shall be executed by or under authority of the Board of Directors (the "Board"). The Board shall consist of seven (7) members. Until Class B membership ceases as provided in Section 3.01 above, the Directors of the Tomball Economic Development Corporation shall serve as the Directors of the Association.

Vacancies

- 3.05. Reserved.

Annual Meeting

- 3.06. Reserved.

Regular Meetings

- 3.07. The Board may provide for regular meetings by resolution stating the time and place of such meetings. The meeting shall be held within the City of Tomball, Texas, and, to the extent practical, at the principal offices of the Association or at such other location as the Board may designate.

Special Meetings

- 3.08. Special meetings of the Board may be called at the request of the president or any two (2) Directors. The person(s) calling the meeting shall fix the time and location of the meeting, which meeting shall be conducted within the City of Tomball, Texas, as provided above for regular meetings. The person(s) calling a special meeting shall notify the secretary of the Association of the information required to be included in the notice of the meeting.

Notice of Meetings; Open Meetings

- 3.09. The Board is subject to the open meetings law, Chapter 551, Government Code.

Quorum

- 3.10. Four (4) Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The presence of a Director may not be established by proxy. No business shall be conducted, nor shall any action be taken by the Board, in the absence of a quorum.

Duties of Directors

- 3.11. Directors shall exercise ordinary business judgment in managing the affairs of the Association. In acting in their official capacity as Directors of the Association, Directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Association or which would be lawful and shall refrain from actions not in the best interest of the Association or which would be unlawful. A Director shall not be liable if, in the exercise of ordinary care, the Director acts in good faith relying on written financial and legal statements provided by an accountant or attorney retained by the Association.

Actions of Board of Directors

- 3.12. The vote of a majority of Directors present at a meeting at which a quorum is present shall be sufficient to constitute the act of the Board. The president shall be entitled to vote on all matters before the Board.

Minutes

- 3.13. The Board will keep minutes of its meetings, which minutes will constitute the record of such meetings.

Removal of Directors

- 3.14. Reserved.

Committees of Directors

- 3.15. The Board may by resolution establish one (1) or more special or standing committees of its members. Such committees shall have the powers, duties and responsibilities established by the Board. The committees shall keep regular minutes of their meetings and report the same to the Board when required. The action of such a committee shall not constitute action by the Board.

Compensation

- 3.16. Members of the Board shall serve without compensation.

Ex-Officio Directors

- 3.17. Reserved.

ARTICLE IV OFFICERS Officer Positions

- 4.01. The officers of the Association shall be a president, a vice president, a secretary, and a treasurer.

Election and Terms of Officers

- 4.02. The officers of the Association shall be elected annually by the Board at the regular annual meeting.

Removal of Officers

- 4.03. Any officer may be removed by the Board at any time, with or without cause. The removal of an officer by the Board does not result in the removal of such person as a Director of the Association.

Vacancies

- 4.04. A vacancy in any office may be filled by the Board for the unexpired portion of the officer's term.

President

- 4.05. The President shall be the chief executive officer of the Association. The President shall supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the Board. When the execution of any contract or installment shall have been authorized by the Board, the President shall execute same except where such power is expressly delegated to another officer of the Association. The President shall perform other duties prescribed by the Board and all duties incident to the office of President.

Vice President

- 4.06. When the President is absent, is unable to act, or refuses to act, the Vice President shall perform the duties of the President. When acting in place of the President, the Vice President shall have all the powers and duties as the President and be subject to all of the limitations and restrictions placed upon the President.

Secretary

- 4.07. The Secretary shall perform the following duties:
- (a) Give all notices as provided in the Bylaws or as required by law.
 - (b) Take minutes of the meetings of the Board and keep the minutes as part of the corporate records.
 - (c) Maintain custody of the corporate records, authenticate corporate documents and affix the seal of the Association as required.
 - (d) Keep a register of the mailing address of each Director and officer of the Association.
 - (e) Perform duties as assigned by the President or Board of Directors.
 - (f) Perform all duties incident to the office of secretary.

Treasurer

- 4.08. The Treasurer shall perform the following duties:
- (a) Have charge and custody of and be responsible for all funds and securities of the Association.
 - (b) Receive and give receipts for moneys due and payable to the Association from any source.
 - (c) Deposit all monies in the name of the Association in banks, trust companies, or other depositories as provided by these Bylaws.
 - (d) Write checks and disburse funds to discharge obligations of the Association.
 - (e) Maintain the financial books and records of the Association.
 - (f) Prepare financial reports at least annually.
 - (g) Perform other duties as assigned by the Board.
 - (h) Perform all duties incident to the office of treasurer.

ARTICLE V TRANSACTIONS OF THE ASSOCIATION Contracts

- 5.01. The Board may by formal action or resolution authorize an officer or agent of the Association to enter into a contract or execute and deliver any instrument in the name of or on behalf of the Association. This authority may be limited to a specific contract or instrument or it may extend to any number and type of contracts and instruments.

Depository

- 5.02. The Board of the Association shall designate a depository bank. All funds of the Association shall be deposited with the depository bank.

Potential Conflicts of Interest; Code of Ethics

- 5.03. The members of the Board shall be governed by the Code of Ethics of the City of Tomball, Texas. If a Director has a substantial interest in a business entity or real property which is the subject of deliberation by the Board, the Director shall file an affidavit with the Secretary of the Association stating the nature and extent of the interest. Such affidavit shall be filed prior to any vote of decision upon the matter by the Board, and the interested Director shall abstain from any vote or decision upon the matter.

Annual Association Budget

- 5.04. The Board shall prepare a proposed annual budget of expected revenues and proposed expenditures for the next ensuing fiscal year.

Prohibited Acts

- 5.05. As long as the Association is in existence, no director, officer or committee member of the Association shall:
- (a) Do any act in violation of the Bylaws or bidding obligations of the Association.
 - (b) Do any act with the intention of harming the Association or any of its operations.
 - (c) Do any act that would make it impossible or unnecessarily difficult to carry on the intended or ordinary business of the Association.
 - (d) Receive an improper personal or business benefit from the operation of the Association.
 - (e) Use the assets of the Association, directly or indirectly, for any purpose other than carrying on the business of the Association.
 - (f) Wrongfully transfer or dispose of Association property, including intangible property such as goodwill.
 - (g) Use the name of the Association (or any substantially similar) or any trademark or trade name adopted by the Association, except on behalf of the Association in the ordinary course of the Association's business.
 - (h) Commit Association funds without the prior approval of the Board.

ARTICLE VI

BOOKS AND RECORDS

Required Books and Records

- 6.01. The Association shall cause to be kept correct and complete books and records of account. All books and records of the Association may be inspected by Directors

of the Association at any reasonable time. The Association's books and records shall include:

- (a) A file endorsed copy of all documents filed with the Texas Secretary of State relating to the Association, including, but not limited to, the Certificate of Formation, any articles of amendment, restated articles, and statement of change of registered office or agent.
- (b) A copy of the Bylaws and any amended versions or amendments to the Bylaws.
- (c) Minutes of the proceedings of the Board.
- (d) A list of names and addresses of the Directors and officers of the Association.
- (e) A financial statement showing the assets, liabilities, and net worth of the Association.
- (f) A financial statement showing the income and expenses of the Association.
- (g) All rulings, letters, and other documents relating to the Association's federal, state and local tax status.
- (h) The Association's federal, state and local information or income tax returns for each of the Association's tax years.

Public Information

- 6.02. The Board of Directors is subject to the public information law, Chapter 552, Government Code.

Audits

- 6.03. Reserved.

ARTICLE VII FISCAL YEAR

The fiscal year of the Association shall begin on the first day of October and end on the last day of September.

ARTICLE VIII AMENDMENTS TO BYLAWS

The Bylaws may be altered, amended, or repealed by the Board of Directors with the consent of the Tomball Economic Development Corporation, as evidenced by a resolution of the Tomball Economic Development Corporation with the Bylaws attached.

ARTICLE IX
MISCELLANEOUS PROVISIONS
Legal Authorities Governing Construction of Bylaws

- 9.01. To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. Further, the Bylaws shall be constructed in accordance with the laws of the State of Texas. All references in the Bylaws to statutes, regulations, or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time.

Legal Construction

- 9.02. If any Bylaw provision is held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision and the Bylaws shall be construed as if the invalid, illegal, or unenforceable provision had not been included in the Bylaws.

Headings

- 9.03. The headings used in the Bylaws are used for convenience and shall not be considered in constructing the terms of the Bylaws.

Seal

- 9.04. The Board may provide for a corporate seal. Such seal would contain the words "TOMBALL B&TP PROPERTY OWNERS ASSOCIATION INC.

Parties Bound

- 9.05. The Bylaws shall be binding upon and inure to the benefit of the Directors, officers and agents of the Association and their respective heirs, executors, administrators, legal representatives, successors and assigns except as otherwise provided in the Bylaws.

Effective Date

- 9.06. These Bylaws, and any subsequent amendments, hereto, shall be effective of and from the date upon which approval has been given both by the Board and the Tomball Economic Development Corporation.

Miscellaneous Provisions

- 9.07. The Association shall indemnify any Director or officer or former Director or officer of the Association for the expenses and costs, including attorney fees, actually and necessarily incurred by said officer or director in connection with any claim asserted against said officer or director by action in court or otherwise by reason of such person being or having been a director or officer, except in relation to matters as to which said person shall have been guilty of negligence or misconduct in respect of the matter in which indemnity is sought.

Association May Provide Insurance

- 9.08. The Association may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association to insure such person against any liability asserted against said person by reason of such person being or having been a director, officer, employee or agent of the Association. The premiums for such insurance shall be paid for by the Association.

Dissolution of the Association

- 9.09. The Association is a nonprofit corporation. Upon dissolution, all of the Association's assets shall be distributed to the Tomball Economic Development Corporation.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of the Tomball B&TP Property Owners Association, Inc., and the foregoing Bylaws constitute the Bylaws of said nonprofit corporation. These Bylaws were duly adopted at a meeting of the Tomball B&TP Property Owners Association, Inc., on _____ .

Signed this ____ day of _____, 2015.

SECRETARY OF THE ASSOCIATION

**DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS FOR
THE TOMBALL BUSINESS & TECHNOLOGY PARK**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

This Declaration of Covenants, Restrictions and Conditions for the Tomball Business & Technology Park (the "Declaration") is made as of the _____ day of _____ 2015, by the Tomball Economic Development Corporation (the "Declarant").

The Declarant is the current owner of certain real property located in Harris County, Texas shown as Lots 2, 3, 4, and 5 of the Tomball Business and Technology Park Final Plat filed April 9, 2013 as recorded in Film Code No. 653006 of the Map Records of Harris County and as depicted in the attached Exhibit "A" (the "Property"). The Declarant is or will ensure development of the Property. Declarant intends the Property to provide development opportunities for a variety of business and trade uses. The Tomball Business & Technology Park is designed to implement community economic development goals and policies, including attracting new business and industry, retaining existing businesses, enhancing community appearance, and building the local supply of sustainable jobs in the City of Tomball. The Property, and any additional land hereinafter acquired or otherwise added to the Property, is subject to the covenants, restrictions and conditions set forth in this Declaration in order to establish a plan for the development, improvement and use of the Property with architectural, landscaping and maintenance controls.

The Declarant intends that the Tomball Business and Technology Property Owners Association, Inc. (the Property Owners Association) create, have, exercise and perform on behalf of, and as agent for, the Declarant and the other Owners the functions set forth in this Declaration, which include, without limitation, maintenance of certain portions of the Property and receiving and approving of plans for improvements to be constructed on the Property.

Now, therefore, the Declarant hereby adopts, establishes and imposes the following covenants, restrictions and easements upon the Property, and declares that the Property and all portions thereof are and shall be owned, held, transferred, sold, conveyed and occupied subject to such covenants, restrictions and easements.

**ARTICLE I
DEFINITIONS**

The following words, when used in this Declaration, shall have the following meanings:

- a. *Board* shall mean the Board of Directors of the Property Owners Association.

- b. *Bylaws* shall mean and refer to the Bylaws of the Association as such Bylaws presently exist and as the Bylaws may hereafter be amended.
- c. *Class A Voting Members* shall mean Owners of one or more Lots within the Property other than Declarant.
- d. *Class B Voting Members* shall mean the Declarant.
- e. *Declarant* shall mean Tomball Economic Development Corporation.
- f. *Declaration* shall mean this Declaration of Covenants, Restrictions, and Conditions for the Tomball Business & Technology Park.
- g. *Governing Documents* shall mean the certificate of formation, the Declaration, the Bylaws, and any amendments, restatements, or other changes, relating to the foregoing
- h. *Lot* shall mean a subdivided portion of the Property.
- i. *Owners* shall mean individuals and/or entities owning a Lot within the Property described in Exhibit "A" known as the Tomball Business & Technology Park.
- j. *Property* shall mean the land described in Exhibit "A" attached hereto known as the Tomball Business & Technology Park.
- k. *Property Owner's Association* shall mean the Tomball Business and Technology Property Owners Association, Inc.

ARTICLE II GENERAL

A. **Public Purpose.**

The purpose of this Declaration is to implement a plan for the orderly development and use of the Property, to encourage the construction of high quality, well-designed improvements on the Property, to restrict certain uses of the Property, to provide for certain development and maintenance standards, to generally preserve and protect the aesthetic appearance and value of the Property and the improvements constructed thereon, to create and maintain a quality business and technology park, to encourage a high return on investment for property owners, and to provide opportunities for development of a variety of business and trade uses. It is designed to implement community economic development goals and policies for attracting new business and industry, retaining existing businesses, enhancing community appearance, and building the local supply of sustainable jobs within the City of Tomball.

B. **The Property Owners Association.**

The Property Owners Association is established by filing a certificate of formation and is governed by its Governing Documents. The Property Owners Association has the powers of a nonprofit corporation and a property owners association under the Texas Business Organizations Code, the Texas Property Code and the Governing Documents. The Board of Directors of the Property Owners Association may adopt rules that do not conflict with law or the Governing Documents. On request, Owners will be provided a copy of any rules. Every Owner is a member of the Property Owners Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Property Owners Association has two (2) classes of voting Members: Class A Members are all Owners, other than Declarant. Class A members have one (1) vote per Lot plus one (1) vote for each forty thousand (40,000) square feet within each lot owned. The Class B Member is the Declarant and has three (3) votes for each Lot

owned plus one (1) vote for each forty thousand (40,000) square feet within each lot owned. The Class B Membership ceases and converts to Class A Membership on the earlier of when the Class A Members' votes exceed the total of Class B Member's votes or December 31, 2063.

ARTICLE III USE RESTRICTIONS

A. General.

Any conveyed premises within the Property shall not be used or occupied at any time for any purpose other than for purposes of projects related to the creation or retention of primary jobs that are suitable for the development, retention, or expansion of manufacturing and industrial facilities, research and development facilities, transportation facilities, distribution centers, small warehouse facilities, business offices, regional or national corporate headquarters facilities, and primary job training facilities for use by higher education institutions.

B. Prohibited Uses.

None of the lands within the bounds of the Property shall be used for any of the following purposes:

1. Uses constituting nuisance, public or private, by reason of emission of smoke, dust, gas, odor, fumes, noise, vibration or refuse material of any kind;
2. Any establishment that offers or sells a product or service that is intended to provide sexual gratification to its users (including, but not limited to, the dissemination or exhibition of obscene materials; any establishment featuring topless, bottomless, or totally nude performances or personnel; or any establishment that regularly shows X-rated or pornographic movies, or sells or rents pornographic material or movies);
3. Any massage parlor, modeling studio, or establishment where men and/or women are engaged in salacious activities;
4. Single Family Residential;
5. Duplex Residential;
6. Apartments;
7. Mobile Homes;
8. Radio/Television Tower/Cell Tower;
9. Public Parking;
10. Recycling Facility;
11. Commercial and/or non-commercial arena/coliseum;
12. Commercial amusements and/or theme parks;
13. Drive-in eating establishments;
14. Funeral homes;

15. Commercial automotive garages;
16. Hospital or sanitarium;
17. Boarding, care, or treatment of any animal not involved in medical research;
18. Growing or production of any agricultural product;
19. Nursery/plant retail/wholesale sales;
20. Salvage or junkyards;
21. Commercial or non-commercial theater or motion picture house.

C. Property Owners Association.

The Property Owners Association shall have the authority to authorize or prohibit uses of the Property provided that such authorizations and prohibitions are in conformance with the zoning designation. Uses that are neither specifically prohibited nor specifically authorized by the Property Owners Association may be permitted only if a use plan describing the proposed use, inasmuch as the Property Owners Association may reasonably request, is submitted to and approved by the Property Owners Association. Approval or disapproval of any proposed use shall be based on the effect of such use on other portions of the Property and the purposes recited in this Declaration.

**ARTICLE IV
ADMINISTRATION AND ENFORCEMENT**

A. Compliance with Law.

1. All improvements in the Property and the use of the Lots in it shall conform to all building, pollution, environmental and other valid governmental regulations, statutes and ordinances.
2. No Owner shall apply for a variance, exception, change, or waiver of any law or governmental regulation until the Owner has obtained the prior written consent of the Property Owners Association to the application.
3. No Owner shall subdivide or change the boundary of any Lot, or apply to any governmental body to subdivide or change the boundary of any Lot until the Owner has obtained the prior written consent of the Property Owners Association to the proposed subdivision or change in boundary.
4. Owners are responsible for all costs associated with the connection to the storm sewer system and other utilities, including payment of all applicable City of Tomball impact and permit fees.

B. Architectural Review.

1. The Property Owners Association has the sole and absolute right and authority to review and approve or disapprove plans for any and all improvements to be constructed on the Property.
2. The Property Owners Association has no authority to determine if improvements comply with local or national codes and applicable law.
3. The Lot Owner is solely responsible for ensuring that improvements comply with building codes, ordinances and applicable law.
4. The Lot Owner's project architect and project engineers are responsible for the acceptability, sufficiency and safety of structural, mechanical and electrical systems in the improvements. The Property Owners Association does not review or approve any of these elements.

The Property Owners Association, or its designee, shall review and approve plans and specifications for improvements to be installed, modified or constructed on the Property. No improvements shall be erected, constructed, placed, altered, remodeled, demolished or permitted to remain on any portion of the Property until plans, in such form and detail as the Property Owners Association may deem necessary, shall have submitted to the Property Owners Association and approved by it in writing.

The Property Owners Association, from time to time, may establish and revise a standard review fee which must be paid by the applicant at the time the plans are submitted for review by the Property Owners Association. The Property Owners Association shall have the authority to select and employ professional consultants to assist it in discharging its duties if the Property Owners Association determines it does not have sufficient expertise or time to review any submitted plan. The cost of such consultants shall be paid by the applicant for the Property Owners Association's approval, which fee will be in addition to the review fee.

The process of reviewing and approving plans and specifications is one which of necessity requires the Property Owners Association to make subjective judgments on items for which specific standards or guidelines are not expressly set forth in this Declaration or other guidelines for the development of the Property. The Property Owners Association shall have full power and authority to make such subjective judgments and to interpret the intent and provisions of this Declaration in such manner and with such results as the Property Owners Association, in its sole discretion, may deem appropriate, and in the absence of final adjudication by a court of competent jurisdiction that the Property Owners Association has abused its discretion, such action by the Property Owners Association shall be final and conclusive.

The Property Owners Association shall be entitled and empowered to enjoin and remove any construction undertaken pursuant to plans that have not been approved in writing by the Property Owners Association. Costs to remove any construction not approved by the Property Owners Association or not properly maintained shall be Owner's responsibility. Improvements for which the Property Owners Association's approval is required are to be constructed in accordance with any development guidelines in existence on the date the preliminary plans are approved, and subsequent changes in such development guidelines shall not require changes in existing construction or plans previously approved by the Property Owners Association.

C. Property Owners Association Plan Review Requirements.

1. Only complete submittals will be accepted.
2. Plan Submittal Requirements:
 - a. Two (2) sets of plans including:
 - i. Site plan showing the location, dimensions and orientations of all proposed buildings and other structures including parking areas and driveways in relation to site boundaries and required setback lines, and also depicting the means of ingress and egress, driveways, traffic patterns, sidewalks, parking spaces, parking ratios, fencing, dumpster enclosures and any and all other proposed improvements sealed by a State of Texas Registered Architect or Registered Professional Engineer;
 - ii. Screening at mechanical and electrical service entries;
 - iii. Statement of percentage of impervious Lot coverage;
 - iv. Grading and drainage plans including the elevation of all proposed utility connections sealed by a State of Texas Registered Professional Engineer;
 - v. Utility layouts on site;
 - vi. Landscape and irrigation plan;
 - vii. Exterior building elevation drawings (all sides) with finish schedule. Exterior elevation drawings shall include roof mounted mechanical equipment and proposed screening;
 - viii. Exterior materials and color sample board); and
 - ix. Exterior signage plans, specifications and locations.
3. Following the review, a summary letter stating the results of the review will be mailed to the Property Owner within thirty (30) days of the submittal.
4. No construction may commence until plans have been approved by the Property Owners Association.

5. The Property Owners Association reserves the right to enforce compliance with the approved plans in accordance with the Declaration.
6. The project is located in Tomball, Texas. Approval by the Property Owners Association shall not constitute approval by the City of Tomball. Construction plans must be submitted to the City of Tomball for all applicable permits.

ARTICLE V DEVELOPMENT STANDARDS

A. Site Planning.

1. Open Space Requirement.

- a. Open space is defined as land not covered by building, structures or paving.
- b. Fifteen percent (15%) of the gross platted area shall be landscaped open space.

2. Parking.

- a. An adequate number of parking spaces for employees, customers/visitors and the handicapped are required for each Lot and each development within such Lot. Accessible parking for the disabled shall be provided according to the City of Tomball, the Americans with Disabilities Act, the Texas Accessibility Standards adopted pursuant to the Architectural Barriers Act, and such other applicable standards and specifications.
- b. No more than thirty (30) parking spaces are permitted in a contiguous single row without being interrupted by a landscape island.
- c. Parking areas are to have concrete curbs and gutters and be constructed of either asphalt or reinforced concrete.
- d. A minimum five-foot wide landscape buffer is required between parking areas and public rights-of-way.

3. Service Access and Service Areas.

- a. Service drives and service areas should not interfere with parking, driveways or walkways and must be screened from adjoining properties and public rights-of-way.
- b. Service areas must be paved and screened from public view.
- c. Screening must be compatible with building materials.
- d. All service area lighting shall include directional shields and must be submitted for Property Owners Association review.

4. Outside Storage.

- a. All uses, except storage and unloading, shall be conducted entirely within an enclosed building. Outdoor storage is permitted to the rear of buildings, and square footage is limited to thirty percent (30%) of the gross floor area of the primary building.
- b. The Property Owners Association must first approve any proposed outside storage screening method prior to same being installed on any Lot contained in the Property.
- c. Outdoor storage must be screened from view from all public road right-of-ways. A combination of screening elements may be used, including walls, berms, and landscape.
- d. Solid walls and fences utilized as a means of screening outdoor storage areas and shall be at least six (6) feet high with a maximum height of twelve (12) feet.
- e. Screening walls or fences shall be constructed of masonry, reinforced concrete, or other similar suitable permanent materials that do not contain openings, and shall be complementary to the building architecture.
- f. Wood or chain-link materials are not acceptable for screening purposes.
- g. No outside storage of any kind will be permitted within fifty (50) feet of any publicly dedicated street frontage.
- h. Alternative equivalent screening may be approved by the Property Owners Association at the time the required plan is approved.

5. Perimeter Fencing.

- a. Permitted Materials: stone, masonry, wrought iron, decorative metal, or a combination thereof where visible from a public road right-of-way. Wood or vinyl coated metal fencing is permitted at the side and rear of the property where it will not be visible from a public road right-of-way.
- b. Prohibited Materials: Barbed wire, above ground electrified wires, razor wire, sharpened top spikes, or similarly hazardous fence materials are prohibited, unless expressly authorized by the Property Owners Association to meet certain regulatory standards.

6. Trash Receptacles and Enclosures.

- a. Trash receptacles must be oriented to the building service areas and screened with a four-sided enclosure.
- b. The enclosure must be two (2) feet higher than the height of the receptacle and a minimum of eight (8) feet in height.
- c. The enclosure shall be constructed of brick, stone, concrete block, decorative metal, or any combination of these elements.

- d. Gates shall be constructed of metal and be opaque.
- e. Wood, chain-link, and vinyl materials are not acceptable.

7. Utility Areas and Communication Equipment.

- a. All utility areas located outside the building must be screened from adjacent public streets and adjoining private property.
- b. Banks of electric meters shall not be visible from public roadways.
- c. Towers, tanks, antennae, satellite dishes and other equipment shall be screened from adjacent public streets and adjoining private property.
- d. All transformers must be pad-mounted and screened by a wall, fence or landscaping.
- e. All transformer electrical drops and utilities must be underground, including secondary power, unless specifically approved by the Property Owners Association.

8. Building Setbacks.

- a. Front Yard: Thirty-five (35) feet.
- b. Side Yard: Twenty-five (25) feet.
- c. Rear Yard: Twenty-five (25) feet.

9. Access/Egress Driveways.

- a. All ingress and egress of Lots shall be from interior streets. No entrance or exit driveway will be permitted on Hufsmith-Kohrville or Holderrieth Roads, unless approved in writing by the Property Owners Association.
- b. No entrance nor exit driveway or curb cut for any Lot shall be allowed within twenty (20) feet from the intersecting Lot line at a street intersection.
- c. All driveways shall be designed and constructed so as to preclude the necessity for vehicles entering the driveway to maneuver, or stack within the traveled way or to use the traveled way as a circulation element.

10. Flagpoles.

- a. A maximum of three (3) flagpoles are allowed per site.
- b. Maximum height of the flagpole shall not exceed thirty (30) feet.
- c. Building mounted flagpoles are not permitted.
- d. Only patriotic or company logo flags are permitted.

11. Lighting.

- a. Site lighting shall be used to provide illumination for security and safety of parking, loading, and access areas.
- b. All lighting shall be shielded to keep light spread within the site boundaries.

- c. Light fixtures in parking areas shall not exceed twenty-five (25) feet in height. Security light fixtures shall not project above the fascia or roofline of the building.
- d. Parking lot lighting shall be located, shielded, and directed in such a manner to assure that it does not reflect or cause glare onto adjacent properties or interfere with street traffic.

12. Landscape and Irrigation.

- a. All landscaping requirements shall be promulgated in the City of Tomball Zoning Ordinance.
- b. Landscape areas adjacent to Spell, Persimmon, Hufsmith-Kohrville and Holderrieth Road should include hardwood trees, with a minimum caliper of three (3) inches, and ground cover.
- c. Irrigation systems shall be designed so as not to spray water onto adjacent roadways or to permit excessive run off from landscape areas onto pavement.
- d. Landscape plans shall be presented to Property Owners Association for approval prior to installation.

13. Sidewalks.

- a. Public sidewalks are required and may be positioned in the fifteen (15) foot landscape buffer along public road rights-of-way.
- b. Sidewalks must be a minimum of five (5) feet wide.
- c. Sidewalks must comply with City of Tomball code requirements.

B. Building Structures.

1. Height.

- a. Building structures shall have a maximum height of seventy (70) feet, inclusive of architectural features.

2. Exterior Materials and Colors.

- a. All exterior materials should complement the architectural design and overall image of the Park.
- b. Acceptable materials are brick, stone, glass, masonry, concrete (including pre-cast concrete or tilt slab construction), Architectural Composite Metal Panels, stucco, and cement plaster. EIFS (exterior insulation finish systems) will be allowed as a trim material. Buildings with architectural composite metal panels shall have factory applied finish.

- c. No building elevation that is visible from a public road right-of-way may have only one (1) material; it must have a combination of at least three (3) of the above described materials.
- d. Color, texture and architectural elements shall be used to break the monotony of large vertical surfaces where visible from public road rights-of-way.
- e. Prohibited exterior materials include:
 - i. Cementitious based siding and trim products;
 - ii. Wood siding, shingle siding, or wood shingle roofing;
 - iii. Painted brick or stone;
 - iv. Corrugated metal;
 - v. Untreated metal;
 - vi. Asbestos;
 - vii. Mirror or reflective glass;
 - viii. Burglar security bars;
- f. Primary building entrances must be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico to provide shelter from the sun and inclement weather. A minimum of thirty (30) percent of all primary building entrance areas must be masonry or stone.
- g. Building colors must be low-reflecting, subtle and neutral or earth-toned. Roof colors must be muted and compatible with the dominant building color. High-intensity colors, metallic colors, or fluorescent colors are prohibited.
- h. Business identity colors. Business identity colors may be incorporated into the architectural design of a building as provided for herein:
 - 1. Business identity colors shall complement the building design.
 - 2. Business identity colors shall not dominate the building design and shall not be designed to create an advertisement of the building itself.
 - 3. A maximum of five (5) percent of each exterior wall may consist of business identity colors. Business identity colors located on awnings are excluded from the calculation of the maximum percentage of business identity colors allowed on each exterior wall.

3. Roof Design and Materials.

- a. Roof forms and materials on all buildings within immediate proximity should be compatible with one another.
- b. Acceptable roof materials include concrete tile, slate, standing seam metal, asphalt shingle, Ethylene Propylene Diene Monomer (EPDM), Thermoplastic polyolefin (TPO), and thirty-year composition shingles.
- c. Roof color should be uniform and integral to the building design.

- d. Roof-mounted mechanical equipment including air conditioners, compressors, condensers, conduits, pipes, vents, ducts, etc. shall be screened from public streets using parapet walls, screening panels, or other equivalent screening method. The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, and architectural styles.

C. Signs.

1. Jurisdiction.

- a. The Property is in Harris County and is under the jurisdiction of the City of Tomball, Texas.
- b. Lot Owners must obtain a sign permit from the City of Tomball prior to installing any sign.

2. Property Owners Association Approval.

- a. Final written approval must be obtained from the Property Owners Association prior to the manufacturing or installation of any signage.
- b. Prior to installation, the Lot Owner must submit two (2) sets of exterior sign drawings to the Property Owners Association for approval.
- c. A summary letter, stating the results of the review, will be mailed to the Lot Owner within thirty (30) days of the submittal.
- d. Lot Owners must use a licensed sign company to manufacture and install on-site signage.

3. Allowable Signs.

- a. Ground-mounted monument signs:
 - i. Each Lot will be allowed one (1) ground-mounted monument sign, except that corner Lots facing two (2) major thoroughfares will be allowed two (2) ground-mounted monument signs;
 - ii. Ground-mounted monument signs shall be a maximum of seven (7) feet in height and seventeen (17) feet in length;
 - iii. The sign must be constructed with materials compatible with the building colors and finishes with a two-foot high masonry or stone base;
 - iv. The sign trim, base and cap must be pre-cast stone;
 - v. Each permitted ground-mounted monument sign shall be located within a planted landscaped area that is of a shape, design and size that will provide a compatible setting and ground definition to the sign. The planted landscaped area shall be maintained on a reasonable and regular basis; and

- vi. Ground-mounted monument signs shall be illuminated from an external light source.
- b. Wall-mounted signs:
 - i. Each site will be allowed one (1) wall-mounted sign attached to the building fascia per street frontage, not to exceed two per lot;
 - ii. Each wall-mounted sign shall not exceed fifty (50) percent of the length of building fascia on which it is placed;
 - iii. Sign copy shall include minimal information only. The use of subordinate information, such as a telephone number, lists of products, pictures of products, etc., is discouraged. The name of the business shall be the dominant message on the sign; and
 - iv. Wall signs may be illuminated either internally or externally.
- c. Building address signs:
 - 1. Office buildings:
 - i. One (1) building-mounted address sign consisting of the address numerals only;
 - ii. Numerals must be mounted on the building near the entry; and
 - iii. Numerals may not be installed above the first floor of the building.
 - 2. Multi-tenant signs:
 - i. One (1) building-mounted address sign per tenant.
 - ii. Numerals must be mounted above the tenant entry.
- d. Directional and delivery signs:
 - 1. Signs to be painted galvanized steel or aluminum single or double post and panel;
 - 2. The color must be compatible with the building and other site and building signage; and
 - 3. The signs will be low profile with a maximum height from ground level of not more than four (4) feet.
- e. Parking signage:
 - 1. Handicap parking signs shall meet City of Tomball, Americans with Disabilities Act and the Texas Accessibility Standards adopted pursuant to the Architectural Barriers Act and other applicable standards and procedures, and shall be painted dark bronze; and

2. Reserved parking signage may be in the form of curb or bumper stops.

4. Prohibited signs.

All signs not expressly permitted are prohibited, including, but not limited to, the following:

- a. Roof signs
- b. Pole signs
- c. Flashing signs
- d. Animated signs
- e. Revolving signs
- f. Portable signs
- g. Signs in public rights-of-way
- h. Banners, flags, pennants and balloons
- i. LED signs without express written approval by the Board.

D. Construction.

- a. The Lot Owner is responsible for the conduct and behavior of its agents, representatives and subcontractors.
- b. All trash and debris must be removed from the site on a regular basis.
- c. Construction crews will not park on, or otherwise use, other Lots within the Property.
- d. The Lot Owner is responsible for damage to adjacent property, roads, driveways, utilities, vegetation, and/or other improvements resulting from construction operations. If any such damage occurs, it must be repaired and/or restored promptly to its original condition, at the expense of the Owner.

E. Inspections.

- a. The Property Owners Association, or its designees, shall have the right, during reasonable business hours, to enter upon and inspect any site or improvements then under construction to determine whether or not such construction complies with the plans that been approved by the Property Owners Association.
- b. If the plans have not been approved, the Property Owners Association may, in its discretion, give the Owner of such site and improvements written notice to such effect, and, thereafter, the Property Owners Association shall be entitled to enjoin further construction and to review and require the removal or correction of any work in place that does not comply with said approved plans.

ARTICLE VI TIME LIMIT FOR IMPROVEMENTS

- A. The Owner of each Lot within the Property shall, within eighteen (18) months after the time of the conveyance of such Lot, commence construction of permanent improvements thereon in accordance with the plans approved by the Property Owners Association. The Property Owners Association may extend the time within which such construction may begin and any such extension shall be in writing.
- B. If, within the eighteen- month period hereinabove provided for or any extension granted by the Property Owners Association, any such Owner of any unimproved Lot within the Property on which construction in accordance with the plans has not commenced, desires to sell such unimproved Lot, the Owner shall first offer such Lot to the Declarant at the original purchase price thereof, with the usual prorating of taxes, insurance premiums, title costs, and closing costs being borne by such Owner as seller and the Declarant as purchaser. The Declarant, upon receipt of written notice of the intention and desire of said Owner to sell such Lot, shall have thirty (30) days thereafter within which to exercise its option to reacquire such Lot on the above terms and conditions. If Declarant does not exercise its option within thirty (30) days, Owner shall have the right to sell the Lot to any other party.
- C. In the event of any such sale by the Owner to the Declarant under subparagraph B above, the Declarant shall pay the consideration therefore to such Owner in cash and such Owner shall execute and deliver a general warranty deed conveying said Lot to the Declarant free and clear of all liens and encumbrances, save and except and subject to zoning ordinances, if any; taxes and assessments not yet due and payable, if any; and the restrictions and limitations of record (not containing provisions of reverter or forfeiture), if any.

ARTICLE VII LIMITATION OF LIABILITY

The Declarant, the Property Owners Association, the City of Tomball, and the Board shall not, individually or in combination, be liable in damages or otherwise to any person submitting plans or specifications for approval or to any Owner or applicant relating to any portion of the Property by reason of subjective decision, mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications submitted; provided however this provision does not apply to acts of willful misfeasance or malfeasance, misconduct or bad faith. The Declarant, the Property Owners Association, the City of Tomball, and the Board shall not, individually or in combination, be liable in damages or otherwise in connection with any construction, design, engineering or defect associated with any improvement constructed on the Property. The approval of plans and specifications by the Property Owners Association does not constitute any warranty or representation that such plans or specifications comply with governmental requirements or good and prudent designs, engineering and construction practices. It is the sole responsibility of the

Owner to determine and see that its plans and specifications comply with such requirements and practices.

ARTICLE VIII CERTIFICATE OF COMPLIANCE

Upon request by the Owner who has complied with the provisions of this Declaration, the Property Owners Association may deliver to the Owner a written certificate of such compliance in recordable form, and such certificate shall be conclusive evidence of such compliance.

ARTICLE IX ASSESSMENTS

The Property Owners Association may levy an assessment to fund operating expenses of the Property Owners Association, and to improve and maintain any common areas (property within the Property not designated as a Lot on the Plat and not accepted for maintenance by the applicable governmental body), including signage or other improvements located within a public right-of-way by agreement with the applicable governmental body. An assessment is a personal obligation of each Owner when the assessment accrues. Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant and assigned to the Property Owners Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Property Owners Association to secure assessments. A Lot becomes subject to assessments on conveyance of the Lot by the Declarant.

Regular assessments are levied by the Board annually to fund the anticipated operating and maintenance expenses of the Property Owners Association. Until changed by the Board, the regular assessment is fifty dollars (\$50.00) per Lot. Regular assessments may be changed annually by the Board. Written notice of the regular assessment will be sent to every Owner at least thirty (30) days before its effective date. Regular assessments will be collected annually in advance, payable on the first day of January, and on the same day of each succeeding year.

In addition to the regular assessments, the Board may levy special assessments for the purpose of funding the cost of repair or replacement of any capital improvement owned or maintained by the Property Owners Association, and requiring funds exceeding those available from the regular assessment. Special assessments must be approved by two-thirds (2/3) of the Owners at a meeting held in accordance with the Bylaws.

The lien granted and reserved to the Property Owners Association is subordinate to any lien granted by an Owner against a Lot not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Property Owners Association's lien as to assessments due before the foreclosure. Any assessment not paid within thirty (30) days after it is due is delinquent.

ARTICLE X GENERAL PROVISIONS

A. Binding Effect and Duration.

The covenants and restrictions of this Declaration shall run with title to and bind the Property, shall be binding on all Owners and shall inure to the benefit of and be enforceable by the Declarant, the Property Owners Association, and the Owners, and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of fifty (50) years from and after the date of recording of this Declaration in the Real Property Records of Harris County, Texas, after which time this Declaration shall automatically be extended for three (3) successive periods of ten (10) years each, unless after such fifty-year period an instrument abolishing this Declaration had been executed and duly acknowledged by the Owners owning, in the aggregate, at least a majority of the gross acreage (exclusive of streets and any common areas) within the Property, and subject to, and conditioned upon, written approval by the City of Tomball, the Declarant and the Board of the Property Owners Association, has been recorded in the Real Property Records of Harris County.

B. Amendment.

This Declaration or any provisions hereof, may be terminated, amended or vacated, as to any portion of the Property, only by a document duly executed and acknowledged by the Owners owning, in the aggregate, at least a majority of the gross acreage contained within the Property (exclusive of streets and any common areas), subject to and conditioned on written approval by the City of Tomball, the Declarant, and the Board of the Property Owners Association. No such termination, amendment, supplement, or vacation shall be effective until a written instrument setting forth the terms thereof has been executed by the City of Tomball, the Declarant, and the Board of the Property Owners Association, acknowledged and filed in the Real Property Records of Harris County, Texas. The Declarant shall, however, have the absolute right to make minor changes or amendments to this Declaration to correct or clarify errors, omissions, mistakes, or ambiguities contained herein, and the Declarant shall have the absolute right to supplement this Declaration for the inclusion of additional Lots or for the deletion of Lots from the Property.

C. Enforcement

The Declarant and the Property Owners Association shall have the right, but not the obligation, to enforce the covenants and restrictions set out in this Declaration. Enforcement may be made by any proceedings at law or in equity against any person violating or attempting to violate any part of this Declaration, as such may be amended, either to restrain or enjoin violations or to recover damages. Damages shall not be deemed to be adequate compensation for any breach or violation of any provision of this Declaration, and the Declarant, the Property Owners Association and the City of Tomball, or any lessees, tenants or other occupants of an Owner's site, shall be entitled to relief by way of injunction, as well as any other remedy in law or in equity. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs from the non-prevailing party. The rights, powers, and remedies provided in this Declaration shall be cumulative and restrictive of other remedies at law or in equity, and the exercise by a person of any particular right, power or remedy shall not be

deemed an election of remedies or to preclude such person's right resort to other rights, powers or remedies available to it.

In witness whereof, the Declarant has caused this Declaration to be executed as of the ____ day of _____ 2015.

DECLARANT:

Tomball Economic Development Corporation

By: _____
Gretchen Fagan, President

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____day of _____, 2015, by Gretchen Fagan, President of the Tomball Economic Development Corporation, a Texas nonprofit corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

(SEAL)

THE STATE OF TEXAS
COUNTY OF HARRIS

WE, TOMBALL ECONOMIC DEVELOPMENT CORPORATION, ACTING BY AND THROUGH GRETCHEN FAGAN, PRESIDENT OF THE BOARD OF DIRECTORS, AND 2978 INDUSTRIAL PROPERTIES, LLC, ACTING BY AND THROUGH JEFF PRESNAL, MANAGER, BEING OFFICERS OF TOMBALL ECONOMIC DEVELOPMENT CORPORATION AND 2978 INDUSTRIAL PROPERTIES, LLC, RESPECTIVELY, OWNERS HEREINAFTER REFERRED TO AS OWNERS OF THE 120.8081 ACRE TRACT DESCRIBED IN THE ABOVE AND FOREGOING PLAT OF TOMBALL BUSINESS AND TECHNOLOGY PARK, DO HEREBY MAKE AND ESTABLISH SAID SUBDIVISION OF SAID PROPERTY ACCORDING TO ALL LIENS, DEDICATIONS, RESTRICTIONS AND NOTATIONS ON SAID PLAT AND HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER, ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES SHOWN THEREON FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED; AND DO HEREBY BIND OURSELVES, OUR HEIRS, SUCCESSORS AND ASSIGNS TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED.

FURTHER, OWNERS HAVE DEDICATED AND BY THESE PRESENTS DO DEDICATE TO THE USE OF THE PUBLIC FOR PUBLIC UTILITY PURPOSES FOREVER AN UNOBSTRUCTED SERIAL EASEMENT FIVE FEET IN WIDTH FROM A PLANE TWENTY FEET (20') ABOVE THE GROUND LEVEL UPWARD, LOCATED ADJACENT TO ALL PUBLIC UTILITY EASEMENTS SHOWN HEREON.

FURTHER, OWNERS DO HEREBY COVENANT AND AGREE THAT ALL OF THE PROPERTY WITHIN THE BOUNDARIES OF THIS PLAT SHALL BE RESTRICTED TO PROVIDE THAT DRAINAGE STRUCTURES UNDER PRIVATE DRIVEWAYS SHALL HAVE A NET DRAINAGE OPENING AREA OF SUFFICIENT SIZE TO PERMIT THE FREE FLOW OF WATER WITHOUT BACKWATER AND IN NO INSTANCE HAVE A DRAINAGE OPENING OF LESS THAN ONE AND THREE QUARTERS SQUARE FEET (18-INCH DIAMETER) WITH CULVERTS OR BRIDGES TO BE PROVIDED FOR ALL PRIVATE DRIVEWAYS OR WALKWAYS CROSSING SUCH DRAINAGE FACILITIES.

FURTHER, OWNERS DO HEREBY DEDICATE TO THE PUBLIC A STRIP OF LAND FIFTEEN FEET (15') WIDE ON EACH SIDE OF THE CENTER LINE OF ANY AND ALL BAYOUS, CREEKS, GULLIES, RAVINES, DRAWS, SLOUGHS, OR OTHER NATURAL DRAINAGE COURSES LOCATED, AND DEPICTED, UPON IN SAID PLAT, EASEMENTS FOR DRAINAGE PURPOSES, GIVING THE CITY OF TOMBALL, HARRIS COUNTY, OR ANY OTHER GOVERNMENTAL AGENCY, THE RIGHT TO ENTER UPON SAID EASEMENT AT ANY AND ALL TIMES FOR THE PURPOSE OF CONSTRUCTION AND MAINTENANCE OF DRAINAGE FACILITIES AND STRUCTURES.

FURTHER, OWNERS DO HEREBY COVENANT AND AGREE THAT ALL OF THE PROPERTY WITHIN THE BOUNDARIES OF THIS PLAT AND ADJACENT TO ANY DRAINAGE EASEMENT, DITCH, GULLY, CREEK, OR NATURAL DRAINAGE WAY SHALL HEREBY BE RESTRICTED TO KEEP SUCH DRAINAGE WAYS AND EASEMENTS CLEAR OF FENCES, BUILDINGS, PLANTING, AND OTHER OBSTRUCTIONS TO OPERATION AND MAINTENANCE OF THE DRAINAGE FACILITY AND THAT SUCH ADJUTING PROPERTY SHALL NOT BE PERMITTED TO DRAIN DIRECTLY INTO THIS EASEMENT, EXCEPT BY MEANS OF AN APPROVED DRAINAGE STRUCTURE.

IN TESTIMONY WHEREOF, THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION HAS CAUSED THESE PRESENTS TO BE SIGNED BY GRETCHEN FAGAN, PRESIDENT OF THE BOARD OF DIRECTORS, THEREUNTO AUTHORIZED, ATTESTED BY THE SECRETARY OF THE BOARD OF DIRECTORS, W. E. (BILL) SUMNER, JR., AND ITS COMMON SEAL HEREUNTO AFFIXED THIS _____ DAY OF _____, 2013.

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

BY: 
GRETCHEN FAGAN,
PRESIDENT OF THE BOARD OF DIRECTORS

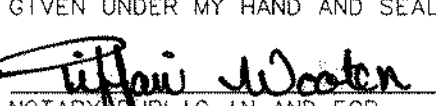
ATTEST:

BY: 
W. E. (BILL) SUMNER, JR.,
SECRETARY OF THE BOARD OF DIRECTORS

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY, PERSONALLY APPEARED GRETCHEN FAGAN AND W. E. (BILL) SUMNER, JR., PRESIDENT AND SECRETARY RESPECTIVELY OF THE BOARD OF DIRECTORS OF TOMBALL ECONOMIC DEVELOPMENT CORPORATION, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN AND HEREIN STATED, AND AS THE ACT AND DEED OF SAID CORPORATION.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 1st DAY OF April, 2013.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES: 4/7/2016



IN TESTIMONY WHEREOF, THE 2978 INDUSTRIAL PROPERTIES, LLC, HAS CAUSED THESE PRESENTS TO BE SIGNED BY JEFF PRESNAL, MANAGER, THEREUNTO AUTHORIZED, ATTESTED BY DAVID BUTLER, MEMBER, AND ITS COMMON SEAL HEREUNTO AFFIXED THIS _____ DAY OF _____, 2013.

2978 INDUSTRIAL PROPERTIES, LLC

BY: 
JEFF PRESNAL,
MANAGER

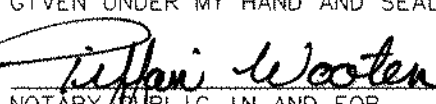
ATTEST:

BY: 
DAVID BUTLER, MEMBER

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED JEFF PRESNAL AND DAVID BUTLER, MANAGER AND MEMBER RESPECTIVELY OF 2978 INDUSTRIAL PROPERTIES, LLC, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN AND HEREIN STATED.

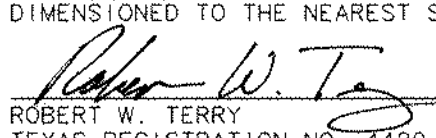
GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 19 DAY OF March, 2013.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES: 04/07/2016



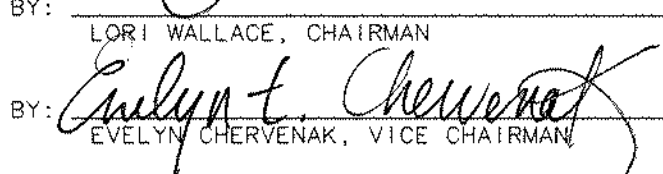
I, ROBERT W. TERRY, AM REGISTERED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THE ABOVE SUBDIVISION IS TRUE AND ACCURATE; WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND; THAT, EXCEPT AS SHOWN, ALL BOUNDARY CORNERS, ANGLE POINTS, POINTS OF CURVATURE, AND OTHER POINTS OF REFERENCE HAVE BEEN MARKED WITH IRON (OR OTHER SUITABLE PERMANENT METAL) PIPES OR RODS HAVING AN OUTSIDE DIAMETER OF NOT LESS THAN THREE-QUARTER INCH (3/4") AND A LENGTH OF NOT LESS THAN THREE FEET (3'); AND THAT THE PLAT BOUNDARY CORNERS HAVE BEEN DIMENSIONED TO THE NEAREST SURVEY CORNER.


ROBERT W. TERRY
TEXAS REGISTRATION NO. 4420



THIS IS TO CERTIFY THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF TOMBALL, TEXAS, HAS APPROVED THIS PLAT AND SUBDIVISION OF TOMBALL BUSINESS AND TECHNOLOGY PARK IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE ORDINANCES OF THE CITY OF TOMBALL AS SHOWN HEREON AND AUTHORIZED THE RECORDING OF THIS PLAT THIS 8th DAY OF April, 2013.

BY: 
LORI WALLACE, CHAIRMAN

BY: 
EVELYN CHERVENAK, VICE CHAIRMAN

WE, THE CITY MANAGER AND THE DIRECTOR OF ENGINEERING & PLANNING FOR THE CITY OF TOMBALL, TEXAS, DO HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE CITY OF TOMBALL ORDINANCE.

GEORGE SHACKELFORD
CITY MANAGER


LORI LAKATOS
ACTING CITY ENGINEER

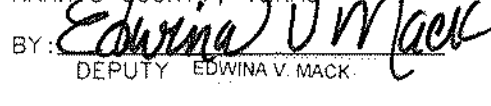
THIS IS TO CERTIFY THAT THE CITY OF TOMBALL ACCEPTS THE PLANNING AND ZONING COMMISSION'S AUTHORIZED APPROVAL AND ACCEPTANCE OF ALL DEDICATED PUBLIC EASEMENTS IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE ORDINANCES OF THE CITY OF TOMBALL AS SHOWN HEREON, AND AUTHORIZED THE RECORDING OF THIS PLAT THIS 15th DAY OF April, 2013.

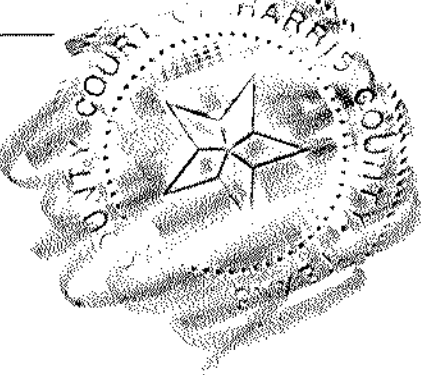
BY: 
GRETCHEN FAGAN,Mayor

BY: 
DORIS SPEER, CITY SECRETARY

I, STAN STANART, COUNTY CLERK OF HARRIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR REGISTRATION IN MY OFFICE ON April 9, 2013, AT 10:50 O'CLOCK A.M. AND IN FILM CODE NUMBER 653006 OF THE MAP RECORDS OF HARRIS COUNTY FOR SAID COUNTY. And duly Recorded on April 9, 2013 At 12:10 PM.

WITNESS MY HAND AND SEAL OF OFFICE, AT HARRIS COUNTY, TEXAS, THE DAY AND DATE LAST ABOVE WRITTEN.

STAN STANART
STAN STANART, CLERK OF
HARRIS COUNTY, TEXAS
BY: 
DEPUTY EDWINA MACK



THIS certificate is valid only as to the instrument on which the original signature is affixed and only then to the extent that such instrument is not altered or changed after recording.

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

NOTES:

- PUBLIC EASEMENTS DENOTED ON THIS PLAT ARE HEREBY DEDICATED TO THE PUBLIC FOREVER. ANY PUBLIC UTILITY, INCLUDING THE CITY OF TOMBALL, HAVE THE RIGHT AT ALL TIMES, OF INGRESS AND EGRESS TO AND FROM AND UPON SAID EASEMENTS FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, INSPECTION, PATROLLING, MAINTAINING AND ADDING TO OR REMOVING ALL OR PART OF ITS RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE PERMISSION OF THE PROPERTY OWNER. ANY PUBLIC UTILITY, INCLUDING THE CITY OF TOMBALL, SHALL HAVE THE RIGHT TO MOVE AND KEEP MOVED ALL OR PART OF ANY BUILDING, FENCES, TREES, SHRUBS, OTHER GROWTHS OR IMPROVEMENTS THAT INTERFERE WITH THE CONSTRUCTION, MAINTENANCE OR EFFICIENCY OF ITS RESPECTIVE SYSTEMS ON ANY OF THE EASEMENTS SHOWN ON THIS PLAT. NEITHER THE CITY OF TOMBALL NOR ANY OTHER PUBLIC UTILITY SHALL BE RESPONSIBLE FOR ANY DAMAGES TO PROPERTY WITHIN AN EASEMENT ARISING OUT OF THE REMOVAL OR RELOCATION OF ANY OBSTRUCTION IN THE PUBLIC EASEMENT.
- ACCORDING TO FLOOD INSURANCE RATE MAP NO. 48201C0230 L, EFFECTIVE DATE JUNE 18, 2007, THE SUBJECT PROPERTY LIES WITHIN ZONE X (UNSHADED), AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN. THIS INFORMATION IS AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND SURVCON MAKES NO WARRANTY AS TO ITS ACCURACY.
- ALL OIL/GAS PIPELINES OR PIPELINE EASEMENTS WITH OWNERSHIP THROUGH THE SUBDIVISION HAVE BEEN SHOWN TO THE BEST KNOWLEDGE OF THE SURVEYOR.
- ALL OIL/GAS WELLS WITH OWNERSHIP (PLUGGED, ABANDONED, AND/OR ACTIVE) THROUGH THE SUBDIVISION HAVE BEEN SHOWN TO THE BEST KNOWLEDGE OF THE SURVEYOR.
- NO BUILDING OR STRUCTURE SHALL BE CONSTRUCTED ACROSS ANY PIPELINES, BUILDING LINES, AND/OR EASEMENTS. BUILDING SETBACK LINES WILL BE REQUIRED ADJACENT TO OIL/GAS PIPELINES AND SETBACKS AT A MINIMUM SHOULD BE 15 FEET OFF CENTERLINE OF LOW PRESSURE GAS LINES, AND 30 FEET OFF CENTERLINE OF HIGH PRESSURE GAS LINES.
- THIS PLAT DOES NOT ATTEMPT TO AMEND OR REMOVE ANY VALID COVENANTS OR RESTRICTIONS
- THE BUILDING LINES SHOWN ON THIS PLAT SHALL BE IN ADDITION TO, AND SHALL NOT LIMIT OR REPLACE, ANY BUILDING LINES REQUIRED BY THE CITY OF TOMBALL CODE OF ORDINANCES AT THE TIME OF THE DEVELOPMENT OF THE PROPERTY.
- THE AREAS SHOWN HEREON HAVE BEEN CARRIED TO THE NUMBER OF DECIMAL PLACES REQUIRED BY THE CITY OF TOMBALL, WHICH EXCEEDS THE PRECISION PRESCRIBED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.
- ALL BEARINGS ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, ALL DISTANCES SHOWN ARE SURFACE DISTANCES AND MAY BE CONVERTED TO GRID BY MULTIPLYING BY A COMBINED AVERAGE ADJUSTMENT FACTOR OF 0.99942131.
- WITH RESPECT TO RECORDED INSTRUMENTS WITHIN THIS PLAT, THE SURVEYOR RELIED ON A TITLE REPORT ISSUED BY STEWART TITLE GUARANTY COMPANY, DATED FEBRUARY 16, 2013, FILE NO. 1320161454.

METES AND BOUNDS DESCRIPTION
120.8081 ACRES (5,262,399.08 SQUARE FEET)
ELIZABETH SMITH SURVEY, ABSTRACT NO. 70
C. N. PILLOT SURVEY, ABSTRACT NO. 632
HARRIS COUNTY, TEXAS

DESCRIPTION OF A 120.8081 ACRE (5,262,399.08 SQUARE FEET) TRACT OF LAND BEING ALL OF A CALLED 17.6301 ACRE TRACT DESCRIBED IN A DEED TO 2978 INDUSTRIAL PROPERTIES, LLC AS RECORDED UNDER FILE NO. 20070289848 OF THE HARRIS COUNTY OFFICIAL PUBLIC RECORDS OF REAL PROPERTY (H.C.O.P.R.R.P.), ALL OF A CALLED 97.57 ACRE TRACT DESCRIBED IN A DEED TO TOMBALL INDUSTRIAL DEVELOPMENT CORPORATION AS RECORDED UNDER FILE NO. 20120018139 OF SAID H.C.O.P.R.R.P., ALL LOTS 384, 385, 386, 387 AND 384 OF THE TOM BALL TOWNSITE AS RECORDED IN VOLUME 2, PAGE 65 OF THE HARRIS COUNTY MAP RECORDS (H.C.M.R.), AND ALL OF LOT 4 OF THE PLAT OF TOMBALL SOUTH COMMERCIAL AS RECORDED IN FILM CODE NO. 632199 OF SAID H.C.M.R., IN THE ELIZABETH SMITH SURVEY, ABSTRACT NO. 70, AND THE C. N. PILLOT SURVEY, ABSTRACT NO. 632, IN HARRIS COUNTY, TEXAS, SAID 120.8081 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS (WITH BEARINGS REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE):

BEGINNING AT A 5/8-INCH IRON ROD FOUND ON THE EASTERLY RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN, INC. RAILROAD WHICH MARKS THE NORTHWESTERLY CORNER OF THE PLAT OF HOUSTON POLYBAG AS RECORDED IN VOLUME 335, PAGE 108, OF THE HARRIS COUNTY MAP RECORDS, SAID POINT ALSO MARKS THE MOST WESTERLY SOUTHWEST CORNER OF SAID 17.6301 ACRE TRACT AND THIS HEREIN DESCRIBED TRACT:

THENCE, NORTH 28° 04' 44" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND THE WESTERLY LINE OF SAID 17.6301 ACRE TRACT, A DISTANCE OF 644.19 FEET TO A 5/8-INCH IRON ROD FOUND FOR AN ANGLE POINT;

THENCE, NORTH 28° 00' 47" WEST, CONTINUING ALONG THE AFORESAID LINES, A DISTANCE OF 641.50 FEET TO A CORNERWELL FOUND FOR THE NORTHWESTERLY CORNER OF SAID 17.6301 ACRE TRACT IN THE SOUTHERLY LINE OF A 3/4-FOOT WIDE ROADWAY AS REFLECTED ON THE PLAT OF TOM BALL TOWNSITE AS RECORDED IN VOLUME 2, PAGE 65, OF THE HARRIS COUNTY MAP RECORDS;

THENCE, NORTH 42° 47' 18" EAST, ALONG THE NORTHWESTERLY LINE OF SAID 17.6301 ACRE TRACT, PASSING AT A DISTANCE OF 329.64 FEET A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR THE MOST NORTHERLY CORNER OF SAID 17.6301 ACRE TRACT AND THE MOST WESTERLY CORNER OF SAID 97.57 ACRE TRACT, AND CONTINUING ALONG THE MOST NORTHWESTERLY LINE OF SAID 97.57 ACRE TRACT FOR A TOTAL DISTANCE OF 1,036.05 FEET TO A CORNERWELL FOUND FOR A NORTHWESTERLY CORNER OF SAID 97.57 ACRE TRACT;

THENCE, SOUTH 48° 42' 29" EAST, ALONG A NORTHEASTERLY LINE OF SAID 97.57 ACRE TRACT, A DISTANCE OF 809.80 FEET TO A CORNERWELL FOUND FOR AN INTERIOR CORNER OF SAID 97.57 ACRE TRACT;

THENCE, NORTH 42° 46' 13" EAST, ALONG A NORTHWESTERLY LINE OF SAID 97.57 ACRE TRACT, A DISTANCE OF 1,122.13 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "AECOM" FOUND IN A SOUTHWESTERLY LINE OF LOT 2 OF THE SAID PLAT OF TOMBALL SOUTH COMMERCIAL;

THENCE, SOUTH 47° 13' 47" EAST, ALONG THE COMMON LINE BETWEEN SAID 97.57 ACRE TRACT AND SAID LOT 2, A DISTANCE OF 54.08 FEET TO A POINT FOR CORNER, FROM WHICH A FOUND 5/8-INCH IRON ROD WITH CAP STAMPED "GS" BEARS SOUTH 80° 09' WEST, 0.22 FOOT;

THENCE, NORTH 44° 30' 33" EAST, CONTINUING ALONG SAID COMMON LINE, A DISTANCE OF 130.94 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR A NORTHERLY CORNER OF SAID 97.57 ACRE TRACT AND AN INTERIOR CORNER OF SAID LOT 2, SAID POINT MARKS THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE, SOUTHEASTERLY, 23.81 FEET ALONG SAID COMMON LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT (CENTRAL ANGLE = 05° 03' 09"; RADIUS = 270.00 FEET; CHORD BEARING AND DISTANCE = SOUTH 22° 53' 22" EAST, 23.80 FEET) TO A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR A POINT OF TANGENCY;

THENCE, SOUTH 20° 21' 47" EAST, CONTINUING ALONG SAID COMMON LINE, AT 352.52 FEET PASS A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR THE SOUTHWESTERLY CORNER OF SAID LOT 2 AND THE NORTHWESTERLY CORNER OF LOT 3 OF SAID TOMBALL SOUTH COMMERCIAL, AND CONTINUING ALONG THE WESTERLY LINE OF SAID LOT 3 FOR A TOTAL DISTANCE OF 866.52 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR THE SOUTHWESTERLY CORNER OF SAID LOT 3 AND AN INTERIOR CORNER OF SAID 97.57 ACRE TRACT;

THENCE, NORTH 68° 38' 13" EAST, ALONG THE SOUTHERLY LINE OF SAID LOT 3 AND A NORTHERLY LINE OF SAID 97.57 ACRE TRACT, AT 180.00 FEET PASS A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR THE NORTHWESTERLY CORNER OF LOT 4 OF SAID TOMBALL SOUTH COMMERCIAL, AND CONTINUING ALONG THE COMMON LINE BETWEEN SAID LOTS 3 AND 4 FOR A TOTAL DISTANCE OF 500.00 FEET TO A 5/8-INCH IRON ROD FOUND ON THE WESTERLY RIGHT-OF-WAY LINE OF HUFSMITH-KOHRVILLE ROAD (WIDTH VARIES) WHICH MARKS THE MOST NORTHERLY CORNER OF SAID LOT 4;

THENCE, SOUTH 20° 21' 47" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID HUFSMITH-KOHRVILLE ROAD AND THE EASTERLY LINE OF SAID LOT 4, A DISTANCE OF 668.74 FEET TO A 3/4-INCH IRON ROD WITH CAP STAMPED "SURVCON/MCKIMCREED" SET FOR THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE, SOUTHEASTERLY, 171.11 FEET, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT (CENTRAL ANGLE = 08° 56' 48"; RADIUS = 1,095.92 FEET; CHORD BEARING AND DISTANCE = SOUTH 15° 54' 19" EAST, 170.94 FEET) TO A 3/4-INCH IRON ROD WITH CAP STAMPED "SURVCON/MCKIMCREED" SET ON A NORTHERLY LINE OF SAID 97.57 ACRE TRACT FOR THE MOST EASTERLY SOUTHEAST CORNER OF SAID LOT 4;

THENCE, NORTH 80° 08' 10" EAST, ALONG A NORTHERLY LINE OF SAID 97.57 ACRE TRACT, A DISTANCE OF 20.01 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID HUFSMITH-KOHRVILLE ROAD WHICH MARKS THE MOST EASTERLY NORTHEAST CORNER OF SAID 97.57 ACRE TRACT, SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE, SOUTHEASTERLY, 224.16 FEET ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID HUFSMITH-KOHRVILLE ROAD AND ALONG THE ARC OF SAID CURVE TO THE RIGHT (CENTRAL ANGLE = 11° 30' 33"; RADIUS = 1,115.92 FEET; CHORD BEARING AND DISTANCE = SOUTH 05° 38' 59" EAST, 223.78 FEET TO A 1-INCH IRON ROD FOUND FOR END OF CURVE);

THENCE, SOUTH 00° 07' 01" WEST, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 804.28 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR THE MOST EASTERLY SOUTHEAST CORNER OF SAID 97.57 ACRE TRACT AND THE NORTHEASTERLY CORNER OF A CALLED 2.8316 ACRE TRACT DESCRIBED IN A DEED TO YAM DEVELOPMENT, INC. AS RECORDED UNDER FILE NO. Y546849 OF THE HARRIS COUNTY OFFICIAL PUBLIC RECORDS OF REAL PROPERTY;

THENCE, SOUTH 84° 04' 07" WEST, ALONG A SOUTHERLY LINE OF SAID 97.57 ACRE TRACT AND THE NORTHERLY LINE OF SAID 2.8316 ACRE TRACT, A PORTION OF SAID LINE ALSO BEING THE NORTHERLY LINE OF UNRESTRICTED RESERVE "A" OF THE PLAT OF YAM PLAZA AS RECORDED IN FILM CODE NO. 594151 OF THE HARRIS COUNTY MAP RECORDS, A DISTANCE OF 406.60 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID RESTRICTED RESERVE "A", FROM WHICH A FOUND 5/8-INCH IRON ROD WITH CAP BEARS NORTH 00° 07' WEST, 0.31 FOOT;

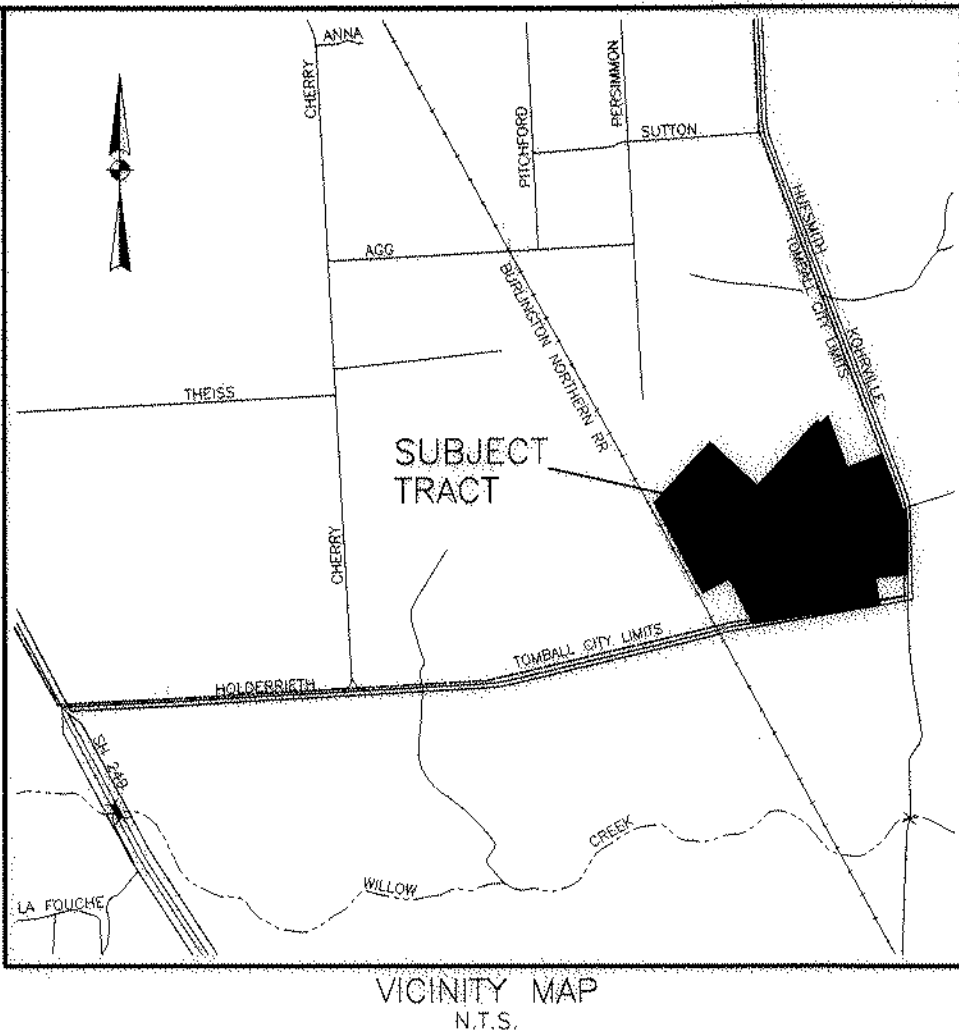
THENCE, SOUTH 08° 49' 53" EAST, IN PART ALONG THE WESTERLY LINE OF SAID RESTRICTED RESERVE "A" AND ALONG THE COMMON LINE BETWEEN SAID 97.57 ACRE TRACT AND THE WESTERLY LINE OF SAID 2.8316 ACRE TRACT, A DISTANCE OF 335.00 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID HOLDERRIETH ROAD WHICH MARKS THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID 97.57 ACRE TRACT;

THENCE, SOUTH 81° 15' 07" WEST, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID HOLDERRIETH ROAD AND THE MOST SOUTHERLY LINE OF SAID 97.57 ACRE TRACT, AT 1,405.41 FEET PASS A 5/8-INCH IRON ROD WITH CAP STAMPED "GS" FOUND FOR THE SOUTHWESTERLY CORNER OF SAID 97.57 ACRE TRACT AND THE SOUTHEASTERLY CORNER OF SAID 17.6301 ACRE TRACT, AND CONTINUING ALONG THE AFORESAID LINES, A DISTANCE OF 607.34 FEET TO A POINT FOR THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID 17.6301 ACRE TRACT AND THE SOUTHEASTERLY CORNER OF SAID HOUSTON POLYBAG, FROM WHICH A FOUND 5/8-INCH IRON ROD WITH CAP BEARS NORTH 43° 41' WEST, 0.33 FOOT;

THENCE, NORTH 28° 04' 02" WEST, ALONG A WESTERLY LINE OF SAID 17.6301 ACRE TRACT AND THE EASTERLY LINE OF SAID HOUSTON POLYBAG, A DISTANCE OF 642.78 FEET TO A 5/8-INCH IRON ROD FOUND FOR AN INTERIOR CORNER OF SAID 17.6301 ACRE TRACT AND THE NORTHEASTERLY CORNER OF SAID HOUSTON POLYBAG;

THENCE, SOUTH 61° 54' 59" WEST, ALONG A SOUTHERLY LINE OF SAID 17.6301 ACRE TRACT AND THE NORTHERLY LINE OF SAID HOUSTON POLYBAG, A DISTANCE OF 377.71 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 120.8081 ACRES (5,262,399.08 SQUARE FEET) OF LAND.

NO.	ARC	DELTA	RADIUS	CHORD BRG	CHORD DIST
C1	23.81'	05°03'09"	270.00'	S22°53'22"E	23.80'
C2	171.11'	08°56'48"	1095.92'	S15°54'19"E	170.94'
C3	224.16'	11°30'33"	1115.92'	S05°38'59"E	223.78'
C4	427.50'	24°29'38"	1000.00'	N69°38'51"E	424.25'
C5	1183.16'	67°47'23"	1000.00'	N42°43'35"W	1115.34'
C6	485.84'	27°50'13"	1000.00'	N62°42'10"W	481.08'
C7	768.33'	44°01'19"	1000.00'	S54°36'37"E	749.57'
C8	414.83'	23°46'05"	1000.00'	S20°42'55"E	411.86'
C9	484.66'	41°28'46"	670.00'	N07°20'39"W	474.16'
C10	361.68'	41°26'46"	500.00'	S07°20'39"E	353.85'
C11	103.12'	11°08'52"	530.00'	N03°15'27"W	102.96'
C12	103.12'	11°08'52"	530.00'	N03°15'27"W	102.96'
C13	1135.83'	67°47'23"	960.00'	N42°43'35"W	1070.73'
C14	506.38'	27°53'50"	1040.00'	N62°40'21"W	501.39'
C15	465.31'	27°46'17"	960.00'	S62°44'08"E	460.77'
C16	734.05'	40°28'25"	1040.00'	S56°24'04"E	718.91'
C17	444.60'	24°29'38"	1040.00'	N69°38'51"E	441.22'
C18	103.12'	11°08'52"	530.00'	N76°19'14"E	102.96'
C19	103.12'	11°08'52"	530.00'	N76°19'14"E	102.96'
C20	85.06'	02°28'57"	1950.00'	S10°08'55"E	85.05'
C21	85.01'	02°29'52"	1950.00'	S07°39'00"E	85.00'
C22	103.12'	11°08'52"	530.00'	S87°28'06"W	102.96'
C23	103.12'	11°08'52"	530.00'	S87°28'06"W	102.96'
C24	410.40'	24°29'38"	960.00'	S69°38'51"W	407.28'
C25	366.41'	20°11'11"	1040.00'	S18°55'28"E	364.52'
C26	103.12'	11°08'52"	530.00'	S14°24'19"E	102.96'
C27	103.12'	11°08'52"	530.00'	S14°24'19"E	102.96'
C28	235.05'	06°54'22"	1950.00'	N14°51'05"W	234.90'
C29	221.83'	06°31'05"	1950.00'	N03°08'32"W	221.71'
C30	7.54'	00°48'53"	530.00'	S71°09'15"W	7.54'
C31	95.58'	10°19'59"	530.00'	S76°43'41"W	95.45'
C32	223.88'	12°20'03"	1040.00'	S70°27'15"E	223.45'
C33	282.49'	15°33'47"	1040.00'	S56°30'19"E	281.62'
C34	626.95'	18°25'17"	1950.00'	N09°05'38"W	624.25'



VICINITY MAP
N.T.S.

20130163773

4/9/2013 ltrn2 \$160.00

FILED

4/9/2013 10:50 AM

Stan Stanart

COUNTY CLERK

FINAL PLAT TOMBALL BUSINESS AND TECHNOLOGY PARK

A SUBDIVISION OF 120.8081 ACRES (5,262,399.08 SQ.FT.), A PORTION OF WHICH IS A PARTIAL REPLAT OF LOTS 384, 385, 386, 387 AND 394, OF THE TOM BALL TOWNSITE AS RECORDED IN VOL. 2, PG. 65 OF THE HARRIS COUNTY MAP RECORDS, AND BEING A REPLAT OF LOT 4 OF TOMBALL SOUTH COMMERCIAL AS RECORDED IN FILM CODE NO. 632199 OF THE HARRIS COUNTY MAP RECORDS, IN THE ELIZABETH SMITH SURVEY, ABSTRACT NO. 70, AND THE C. N. PILLOT SURVEY, ABSTRACT NO. 632, CITY OF TOMBALL, HARRIS COUNTY, TEXAS

OWNERS:
Tomball Economic
Development Corporation
29201 Quinn Road
Tomball, TX 77375
281-401-4086

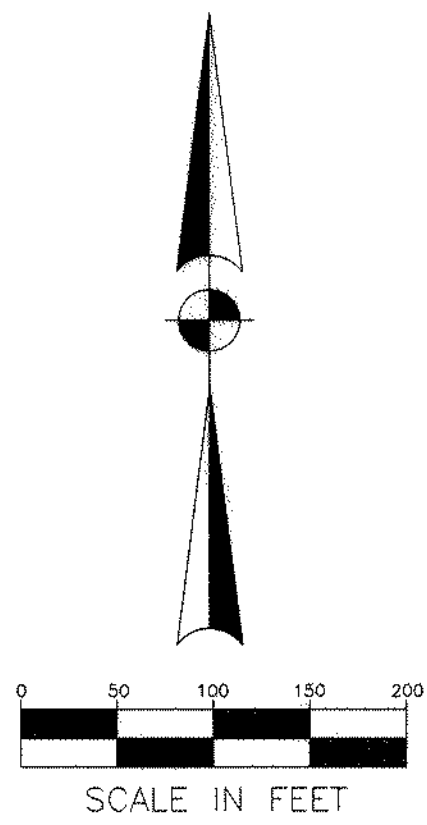
2978 Industrial Properties, LLC
25614 Bridle Creek Drive North
Magnolia, TX 77355-5876

SURVEYOR / ENGINEER:

CLR, Inc.

Engineers • Surveyors • GIS
1930 FM-362, Waller, Texas 77484
Phone: (713) 462-0993 Fax: (713) 462-2732

SURVCON
a division of
MCKIM & CREED
ENGINEERS, SURVEYORS & ARCHITECTS
5757 Woodway Drive, Suite 1



FINAL PLAT TOMBALL BUSINESS AND TECHNOLOGY PARK

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OWNERS:

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Houston, TX 77057
713-659-9023
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7 LOTS

SCALE: 1"=100' MARCH, 2013

Page 146 of 205

NOTES (SHEET 2 ONLY):

- ONE-FOOT RESERVE DEDICATED FOR BUFFER PURPOSES TO THE PUBLIC IN FEE AS A BUFFER SEPARATION BETWEEN THE SIDE OR END OF STREET WHERE SUCH STREETS ADJUT ADJACENT PROPERTY. THE CONDITION OF SUCH DEDICATION BEING THAT WHEN THE ADJACENT PROPERTY IS SUBDIVIDED OR RE-SUBDIVIDED IN A RECORDED PLAT, THE ONE-FOOT RESERVE SHALL THEREUPON BECOME VESTED IN THE PUBLIC FOR STREET RIGHT-OF-WAY PURPOSES AND FEE TITLE THERETO SHALL REVERT TO AND REVEST IN THE DEDICATOR, THEIR HEIRS, ASSIGNS OR SUCCESSORS.
- TEMPORARY CUL-DE-SAC IS PROVIDED AS A TURN-AROUND AT THE END OF A DEAD END STREET. THE TEMPORARY CUL-DE-SAC SHALL BE AUTOMATICALLY TERMINATED UPON THE EXTENSION OF SOUTH PERSIMMON STREET INTO THE ADJACENT PROPERTY.
- SEE SHEET 1 OF 3 FOR LINE AND CURVE TABLES.

MATCH LINE - SEE SHEET 3 OF 3

SHEET 2 OF 3

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Consideration and Possible Action to Approve, as a Project of the Corporation, an Agreement with Dynamed Clinical Research to make Direct Incentives To, or Expenditures For, the Creation or Retention of Primary Jobs associated with the Relocation and Development of Its Corporate Headquarters to be Located at 13406 Medical Complex Drive, Tomball, TX. The Estimated Amount of Expenditures for such Project is \$15,852.

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project." At its regular meeting on February 10, 2015, the TEDC Board of Directors did take formal action to approve, as Project of the TEDC, an agreement with Dynamed Clinical Research for the relocation and development of its Corporate Headquarters. The City Council of Tomball has final approval authority over all projects and agreements of the TEDC.

Origination:

Tomball Economic Development Corporation Board of Directors

Recommendation:

Approve, as a Project of the Corporation, the Performance Agreement with Dynamed Clinical Research.

Funding: Yes

Account Number: Project Grants

Party(ies) responsible for placing this item on agenda:

Kelly Violette, Executive Director, Tomball Economic Development Corporation

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Cover Memo

Request Letter

Economic Impact Analysis

Draft Performance Agreement



TO: City Council Members
City of Tomball

FROM: Kelly Violette, Executive Director

MEETING DATE: March 2, 2015

SUBJECT: Dynamed Clinical Research

ITEM TYPE: Action

Dynamed Clinical Research is a clinical research company with clinics throughout Texas and Illinois. The company has been in business since 2006 and is currently located at 12345 Jones Road, Suite 295 Houston, TX 77070. The company connects pharmaceutical and research organizations to qualified physicians with a diverse range of specialties, including cardiology, endocrinology, pediatrics, rheumatology, pulmonology and family medicine, to conduct studies and clinical trials to help determine the safety and effectiveness of medications, devices, diagnostic products and treatment regimens.

Dynamed Clinical Research currently has several research sites at numerous medical offices in Tomball and desires to relocate its corporate office to Tomball to grow its pool of physician practices conducting clinical trials.

The company plans to enter into a 10-year lease for a 4,000 square foot space within the Texas Professional Building located at 13406 Medical Complex Drive, Tomball, TX 77375. The estimated capital investment for this project is \$360,000.00

The company will relocate thirty (30) full-time jobs and plans to create two (2) new primary jobs during its first year in operation in Tomball. This company is considered a primary employer based on its North American Industry Classification Code (NAICS) of 541712: Scientific Research and Development Services.

An economic impact analysis is included with the agreement to show the impact of this project on Tomball's economy. Per the analysis, the estimated five year net benefit to the city is \$52,841. The proposed incentive is \$15,852.00, based upon 30% of the five year net benefit.

DYNAMED

CLINICAL RESEARCH

January 28th 2015

Kelly Violette
Executive Director
Tomball Economic Development Corporation

Re: Grant Assistance Application

Ms. Violette,

We have been in discussions with Texas Professional Building, LP to explore the prospect of moving our corporate head office to their premises at 13406 Medical Complex Drive, Tomball, Texas 77375. Dynamed Clinical Research is a network of clinical research sites and partners with physician practices across Texas, Illinois, including several physicians in Tomball. Given Tomball's rapid rise as a regional hub for the healthcare industry, we are excited to support that growth, and deepen our commitment to the community.

Dynamed has been in business since 2006. Our clients include much of the roster of leading pharmaceutical manufacturers, including Lilly, Merck, Novartis, Pfizer and AstraZenca; and we have been at the forefront of industry associations such as Society for Clinical Research Sites. The company is poised to grow and we believe that moving to Tomball will increase the awareness in the local community for an alternate way to receive treatment.

We currently have some employees that reside in Tomball and at least 5 more that are contemplating to move out that way should the company relocate there. We anticipate a sizeable economic impact to the Tomball community through our presence. This includes to local hotel, retail and restaurant businesses through our average 3 out-of-town visitors a week, and our employees, who typically make well above the average individual income for Tomball residents. In addition, our operations would bring business to a range of business, especially in the healthcare field—including pharmacies, labs, diagnosis centers, home health providers. Furthermore, our move could be a precursor to the move to Tomball of our several medical allied businesses; which we believe would be a great addition to the existing medical community.

Above all, we intend to help and be a medical resource to the residents of Tomball. We believe that research is extremely beneficial and Congress just moved a motion yesterday to instruct the FDA to allow and enhance more participation in research. Research patients benefit from a lot more care and closer attention, with access to new possible treatments, medications and supplies at no cost to them, and stipends to cover travel and other expenses.

DYNAMED

CLINICAL RESEARCH

We currently work with Drs Mandviwala, Palanpurwala, Martin, Irfan and Naeem in Tomball, and our intention is to grow this pool of physician practices conducting clinical trials and assist the community.

With this mission in mind, we ask for any grant and assistance that the Economic Development in Tomball can provide.

Respectfully,


Mohammad Millwala, CEO

Economic Impact of Dynamed Clinical Research, LP in Tomball, TX

Executive Summary

February 3, 2015

Prepared by:

Tomball Economic Development Corporation
29201 Quinn Road
Tomball, TX 77375

This summary was prepared by the Tomball Economic Development Corporation using Quick Impact by Impact DataSource. Please consult the full economic impact report for additional details and assumptions used in this analysis.

ECONOMIC IMPACT EXECUTIVE SUMMARY: DYNAMED CLINICAL RESEARCH, LP

Project Description

DM Clinical Research has been conducting clinical research in the Tomball area since 2006. We have primarily been working inside physician clinics and supporting their efforts of performing clinical trials. The company is now evaluating to execute a two prong strategy; move the corporate office to Tomball and also open a world class modern clinical research site where patients and doctors will come to conduct Phase I through IV trials. There are several physicians in the Tomball area and outside near the Spring and Willowbrook areas that have shown interest in partnering up with us in the event we have a research facility in Tomball. There will be a large offering of therapeutic indications, ranging from pediatric to geriatric population.

Economic Impact Over the First 10 Years

The project will have the following economic impact on the City of Tomball area over the first 10 years:

Economic Impact Over the First 10 Years			
	Direct	Indirect & Induced	Total
Total number of permanent direct and indirect jobs to be created	48	52	100
Salaries to be paid to direct and indirect workers	\$17,521,810	\$9,493,317	\$27,015,127
Taxable sales and purchases expected in the city	\$2,284,347	\$830,665	\$3,115,012
The value of new residential property to be built for direct and indirect workers who move to the city by Year 10	\$149,615	\$0	\$149,615
The market value the firm's property on local tax rolls in Year 1	\$350,000	\$0	\$350,000

Fiscal Impact Over the First 10 Years

Over the first 10 years, the City of Tomball and Tomball EDC can expect the following net benefits from the facility, its employees, and workers in spin-off jobs created in the community:

Costs and Benefits for the City Over the First 10 Years			
	Benefits	Costs	Net Benefits
Sales taxes allocated to the City	\$46,725	\$0	\$46,725
Sales taxes allocated to Tomball EDC	\$15,575	\$0	\$15,575
Property taxes	\$21,131	\$0	\$21,131
Utility revenues	\$113,658	\$0	\$113,658
Utility franchise fees	\$24,519	\$0	\$24,519
Hotel occupancy taxes	\$38,633	\$0	\$38,633
Other taxes and user fees	\$17,739	\$0	\$17,739
Building permits and fees	\$2,970	\$0	\$2,970
Costs of providing utilities	\$0	\$102,292	(\$102,292)
Costs of providing municipal services for new residents	\$0	\$39,485	(\$39,485)
Total	\$280,950	\$141,777	\$139,173

ECONOMIC IMPACT EXECUTIVE SUMMARY: DYNAMED CLINICAL RESEARCH, LP

Net Benefits To The City From The Direct and Indirect Sources

The city will receive benefits from direct and indirect economic impacts that result from the project. The benefits, associated costs and net benefits for the first 10 years are shown below, divided between direct and indirect impacts.

Net Benefits to the City from Direct and Indirect Sources			
<i>Benefits/Costs from:</i>			
	<i>Direct</i>	<i>Indirect & Induced</i>	<i>Total</i>
<u><i>Additional revenues:</i></u>			
Sales taxes allocated to the City	\$34,265	\$12,460	\$46,725
Sales taxes allocated to Tomball EDC	\$11,422	\$4,153	\$15,575
Property taxes	\$21,131	\$0	\$21,131
Utility revenues	\$65,041	\$48,617	\$113,658
Utility franchise fees	\$21,200	\$3,319	\$24,519
Hotel occupancy taxes	\$38,633		\$38,633
Other taxes and user fees	\$8,869	\$8,869	\$17,739
Building permits and fees	\$2,970		\$2,970
Total additional revenues	\$203,532	\$77,418	\$280,950
<u><i>Additional costs:</i></u>			
Costs of providing utilities	\$58,537	\$43,755	\$102,292
Costs of providing municipal services for new residents	\$19,742	\$19,742	\$39,485
Total additional costs	\$78,280	\$63,497	\$141,777
Net Benefits	\$125,253	\$13,921	\$139,173
<i>Percent of total net benefits for city</i>	<i>90%</i>	<i>10%</i>	

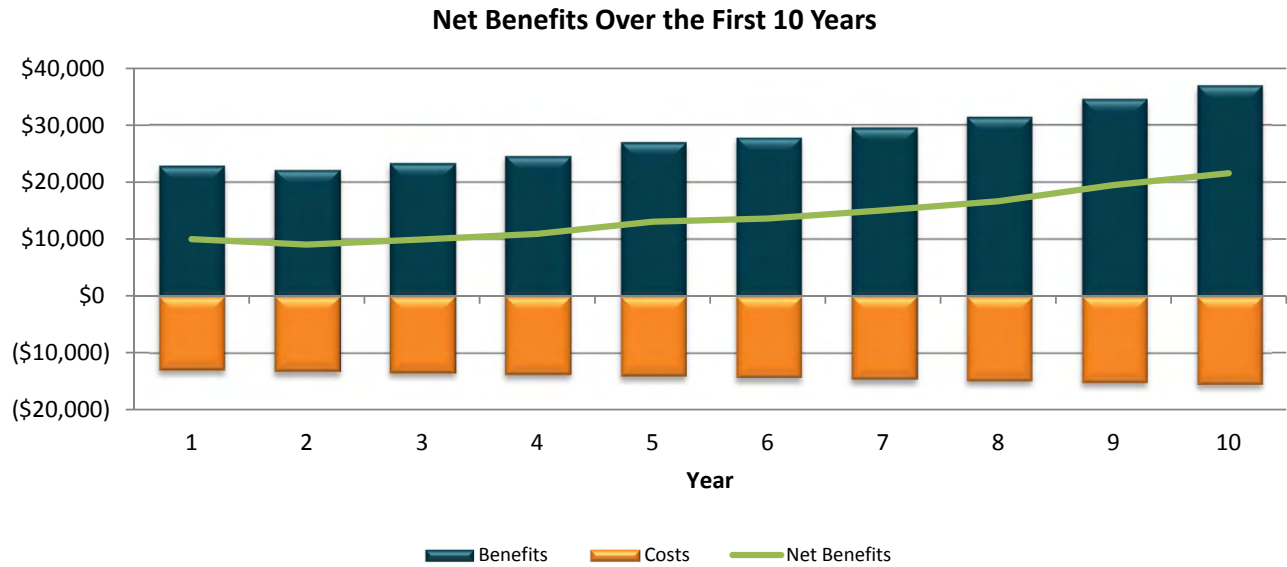
The net benefits to the city over the first 10 years are estimated to accrue as detailed below.

Net Benefits to the City by Year				
	Benefits	Costs	Net Benefits	Cumulative Benefits
Year 1	\$22,926	\$12,948	\$9,978	\$9,978
Year 2	\$22,229	\$13,207	\$9,022	\$19,000
Year 3	\$23,378	\$13,471	\$9,907	\$28,906
Year 4	\$24,637	\$13,741	\$10,896	\$39,802
Year 5	\$27,054	\$14,015	\$13,038	\$52,841
Year 6	\$27,901	\$14,296	\$13,606	\$66,446
Year 7	\$29,607	\$14,582	\$15,025	\$81,472
Year 8	\$31,507	\$14,873	\$16,634	\$98,105
Year 9	\$34,663	\$15,171	\$19,492	\$117,598
Year 10	\$37,050	\$15,474	\$21,576	\$139,173
Total	\$280,950	\$141,777	\$139,173	
<i>Present Value of Net Benefits*</i>			<i>\$103,323</i>	

**The Present Value of Net Benefits is a way of expressing in today's dollars, dollars to be paid or received in the future. A dollar today and a dollar to be received or paid at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or discount rate. This analysis uses a discount rate of 5% to make the dollars comparable.*

Fiscal Impact Over the First 10 Years

The graph below depicts the costs, benefits and net benefits to the city over the first 10 years.



Incentives

Tomball EDC may consider the following incentives for the project:

Incentives	
Year 1	\$15,852
Year 2	\$0
Year 3	\$0
Year 4	\$0
Year 5	\$0
Year 6	\$0
Year 7	\$0
Year 8	\$0
Year 9	\$0
Year 10	\$0

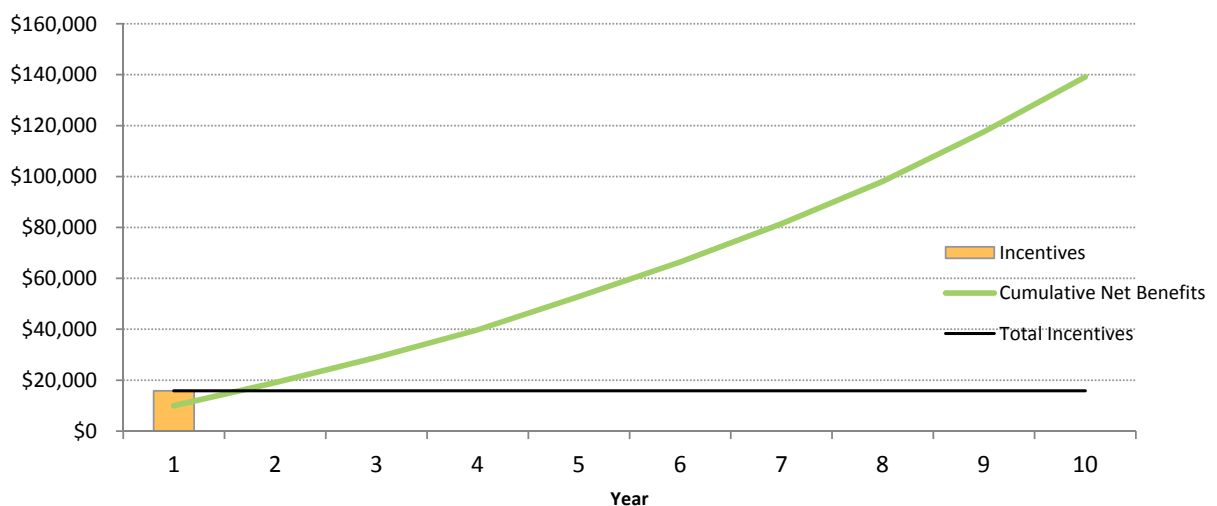
The table below shows an analysis of these incentives, including a calculation of incentives per job, rate of return and payback period.

Analysis of Incentives	
Total Incentives	\$15,852
Rate of Return Over 5 Years	66.7%
Payback period (years)	1.7

* Rate of Return and Payback Period are calculated based on the sum of annual incentives rather than the PV of incentives.

The graph below depicts the total incentives currently under consideration versus the cumulative net benefits to the city. The intersection indicates the length of time until the incentives are paid back.

Incentives vs. Cumulative Net Benefits



AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the “Agreement”) is made and entered into by and between the **Tomball Economic Development Corporation**, an industrial development corporation created pursuant to Tex. Rev. Civ. Stat. Ann. Art. 5190.6, Section 4B, located in Harris County, Texas (the “TEDC”), and **Dynamed Clinical Research, LP** (the “Company”), 12345 Jones Rd, Suite 295, Houston, Texas 77070.

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the “City”), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company will be leasing a 4,000 square foot existing lease space located in the Texas Professional Building, 13406 Medical Complex Drive, Tomball, TX 77375 (the “Property”), and more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

WHEREAS, the Company, currently located at 12345 Jones Rd, Suite 295, Houston, Texas 77070, proposes to relocate its corporate headquarters to the Property, and as part of the process, plans to expend funds to make capital improvements (the “Improvements”), generally described in Exhibit “B,” attached hereto and made a part hereof, as are necessary to an existing 4,000 square foot lease space; and

WHEREAS, the Company also proposes to move thirty (30) full-time employees to the Property and to create two (2) new primary jobs in Tomball within the first year of operation in conjunction with the relocation of its business operations to the Property; and

WHEREAS, the TEDC agrees to provide to the Company the sum of Fifteen Thousand Eight Hundred and Fifty-Two Dollars (\$15,852.00) to assist in the construction of the Improvements, the relocation of the thirty (30) employees, and the creation of the two (2) new full-time primary jobs at the Property; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions; and

WHEREAS, this expenditure is found by the Board of Directors of the TEDC to be suitable for the relocation and upgrading of its business operation in furtherance of the retention and creation of primary jobs;

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

Except as provided by paragraph 4, the Company covenants and agrees that it will operate and maintain the proposed business for a term of at least five (5) years and will maintain thirty-two (32) employees on the Property.

2.

The Company also covenants and agrees that the construction of the Improvements, the relocation of the thirty (30) employees, the hiring of the two (2) new employees, and the obtaining of all necessary occupancy permits from the City shall occur within eighteen (18)

months from the Effective Date of this Agreement. Extensions of these deadlines, due to any extenuating circumstance or uncontrollable delay may be granted at the sole discretion of the Board of Directors of the TEDC.

3.

The Company further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An “undocumented worker” shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized under the law to be employed in that manner in the United States.

4.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to grant to the Company Fifteen Thousand Eight Hundred and Fifty-Two Dollars (\$15,852.00) to fund a portion of the cost of the Improvements, the relocation of the thirty (30) employees, and the addition of the two (2) new employees to the Tomball operation. The TEDC agrees to distribute such funds to the Company within thirty (30) days of receipt of a letter from the Company requesting such payment, which letter shall also include: (a) a copy of the City's occupancy permit for the Improvements to the Property; (b) proof that the company has added the number of employees indicated above to the Tomball operation as evidenced by copies of Texas Workforce Commission form C-3 or Internal Revenue Service form 941; (c) a copy of a letter from the City acknowledging that all necessary plats, plans, permits, and specifications have been received, reviewed, and approved; (d) certification that the Improvements have been constructed in accordance with the approved plans and specifications; (e) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been

released; and (f) Proof of payment to all contractors and subcontractors providing work and/or materials in the construction of the Improvements, proof of payment must include copies of canceled checks and/or credit card receipts and copies of paid invoices from all contractors and subcontractors.

In the event the number of jobs originally projected is not met or maintained, the amount of the funding provided to the Company by TEDC will be reduced on a pro-rata basis to reflect the actual number of jobs at the time of the request for disbursement of funds.

5.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90 day Treasury Bill plus ½% per annum, within 120 days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90 day Treasury Bill plus ½% per annum, within 120 days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default accompanied by copies of all applicable invoices.

It is understood and agreed by the parties that, in the event of a default by the TEDC on any of its obligations under this Agreement, the Company's sole and exclusive remedy shall be limited to either a) the termination of this Agreement or b) a suit for specific performance.

6.

Personal Liability of Public Officials: To the extent permitted by law, no director, officer, employee or agent of the TEDC, and no officer, employee or agent of the City of Tomball, shall be personally responsible for any liability arising under or growing out of this Agreement.

7.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, affiliates, and subsidiaries, and shall remain in force whether the Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

8.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:

Tomball Economic Development Corporation
401 W. Market Street
Tomball, Texas 77375
Attn: President, Board of Directors

If to Company: Dynamed Clinical Research, LP
12345 Jones Rd, Suite 295
Houston, Texas 77070
Attn: Mohammad A. Millwala, CEO

9.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

10.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

11.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

12.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

13.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such

words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this _____ day of _____ 2015 (the “Effective Date”).

DYNAMED CLINICAL RESEARCH, LP

By: _____

Name: Mohammad A. Millwala

Title: CEO

ATTEST:

By: _____

Name: _____

Title: _____

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: _____

Name: Gretchen Fagan

Title: President, Board of Directors

ATTEST:

By: _____

Name: William E. Sumner Jr.

Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____
2015, by Mohammad A. Millwala, CEO of Dynamed Clinical Research, LP, for and on behalf of
said company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____
2015, by Gretchen Fagan, President of the Board of Directors of the Tomball Economic
Development Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

Exhibit A
Description of Property

Legal Description:

TR 1 BLK 1

TEXAS PROFESSIONAL BUILDING

Property Address:

13406 MEDICAL COMPLEX DR

TOMBALL TX 77375

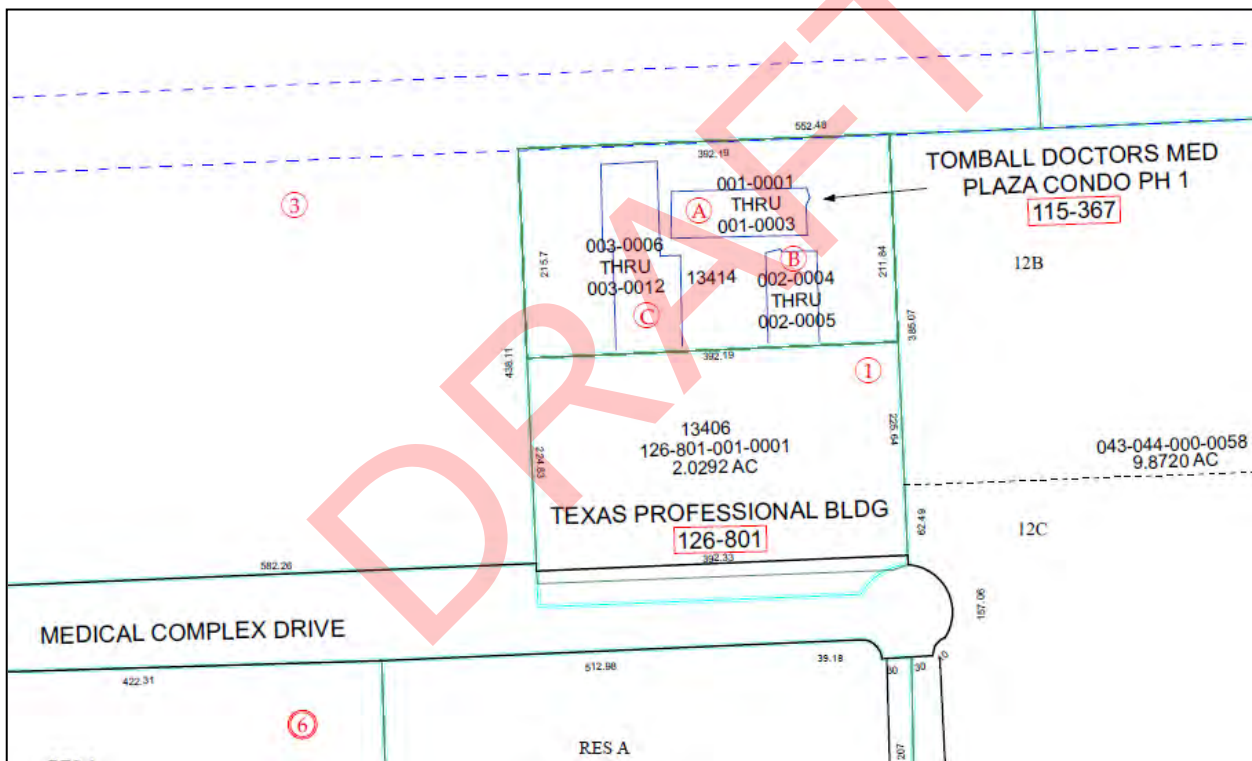




Exhibit B
Description of Improvements

Build out of existing 4,000 square foot vacant lease space including:

- Plumbing
- Electric
- Walls
- Paint
- Furniture
- Equipment
- HVAC

DRAFT

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Approve Request from St. Anne Catholic Community to Install a Changeable Electronic Variable Message Sign (CEVMS) Within the Footprint of Their Existing Sign at 1111 South Cherry Street.

Background:

Section 34-11(a) requires that proposed changeable electronic variable message signs (CEVMS) that are not to be installed adjacent to state rights-of-way and that are not for public tax-supported schools shall request approval from City Council.

Origination:

St. Anne Catholic Community

Recommendation:**Funding:****Party(ies) responsible for placing this item on agenda:**

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Letter Request and Exhibit

Location Map

February 19, 2015

Tomball City Hall
401 Market Street
Tomball, TX 77375

Dear Tomball City Council:

On behalf of the St. Anne Catholic Community Sign Committee, I respectfully request Tomball City Council review and consider our application for retrofitting a LED sign into our existing street signage.

This year, St. Anne Catholic Church celebrates our 65th year within the City of Tomball and at the same time, our School is marking its 30th anniversary. Today, the Church encompasses over 2,200 families and our school educates nearly 400 vibrant students from grades Pre-K through 8th grade.

We are requesting an individual case exception to the recently passed city ordinance concerning motion graphic devices. It is the desire of this faith based community to more effectively communicate with both its members and the broader Tomball community in an efficient, engaging, and effective manner that has become a core mainstream approach (LED Signage).

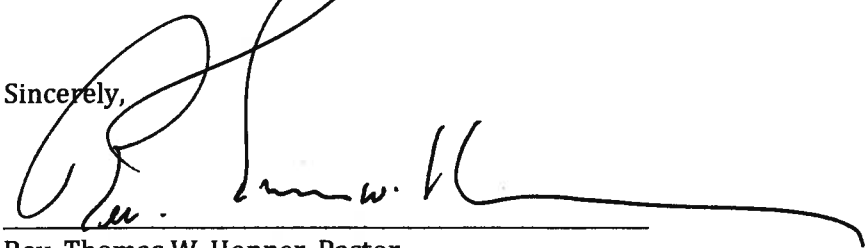
It is our sincere desire that the City Council considers St. Anne Community, with both our Church and Full-Time Accredited School, to be viewed differently from the set forth signage guidelines intended for entities who may give music, dance, tutorial lessons or other types of small scale, limited, or part-time instruction.

Our sign design follows the instructions provided by City Hall personnel as to the size and operation, found in Article 34-11B. We feel our new sign design complies with the city's guidelines and desire to maintain the beauty and standards of the City of Tomball. Our proposal does not exceed the size limit of 32 square feet, and the sign will automatically dim during the evening hours, eliminating any distraction to residents and traffic in the surrounding area.

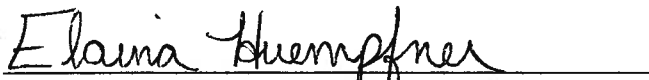
We value the Council's desire to maintain the high standards of the city and we fully support your initiatives and guidance. In turn, we sincerely hope the Council supports our desire to communicate our message to the Tomball community, just as the public schools and other organizations are able to communicate their message utilizing the same technology and approach.

Once again, we greatly appreciate your willingness to consider this matter and are willing to work with you and the council to ensure that we have relevant means to connect with the current and future community for years to come. Thank you for your support.

Sincerely,

A handwritten signature in black ink, appearing to read "Rev. Thomas W. Hopper", written over a horizontal line.

Rev. Thomas W. Hopper, Pastor

A handwritten signature in black ink, appearing to read "Elaina Huempfer", written over a horizontal line.

Mrs. Elaina Huempfer, Committee Chair



FOR CONCEPTUAL PURPOSES ONLY

PROPOSED LED DISPLAY FOR ST ANNES CHURCH, 16MM DISPLAY CONCEPT

Configuration:

Quantity of (2) custom 16mm LED Display System, each display consisting of Qty. 14 modules. Each display will be configured in a module matrix of 2 Modules High x 7 Modules Wide, providing a pixel matrix of 40 x 140. Service of all display components will be from the Front of Display. Rear service access of components can be included at additional cost.

Construction:

The display cabinet will be fabricated of CNC punched aluminum sheet metal. Cabinet sections are fabricated as large as possible but small enough to fit on a flatbed truck. Any specific site or installation requirements must be confirmed prior to fabrication. D3 provides a black powder coat finish BK303 (samples provided upon request). Custom colors are available at an additional cost and may affect lead-time. Displays are shipped pre-wired and populated with modules.

Cooling:

The display cabinet will be cooled via forced airflow, with ambient air intake and hot air exhaust through vents in cabinet. The vents may not be obstructed in any way and must be clear to ambient air. Custom ventilation systems can be engineered and supplied at additional cost.

Weight:

Estimated weight for one LED display is 220 lbs.

Power:

The LED display requires a connected load of 1.2 kw based on a target brightness of 7000 nits. The D3 system utilizes auto-ranging power supplies and can accept voltages from 110V to 240V. Voltage to be confirmed prior to fabrication. Individual branch circuits will be brought to the display and terminated within the display cabinet.

Data:

The LED display requires a Gigabit Ethernet homerun connection to the controller, data cable quantity TBD. Data cables are not supplied by D3 and are to be supplied and installed by others. CAT6 cabling will suffice up to a distance of 300' and will terminate within the display cabinet. Longer distances will require fiber optic cable and conversion equipment. Fiber converters can be supplied and pre-installed by D3 at an additional cost.

Installation:

D3 will provide mounting angles on the rear of the display for attachment to a structure provided by others. Custom mounting configurations can be engineered and fabricated at an additional cost.



11370 SUNRISE PARK DRIVE
RANCHO CORDOVA, CA 95742
916.669.7408 WWW.D3LED.COM

NOTE:

1. THE INFORMATION CONTAINED IN THIS DRAWING IS PROPRIETARY AND CONFIDENTIAL TO D3 LED, LLC. THIS DRAWING MAY BE SUBJECT TO CHANGE WITHOUT NOTICE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF D3 LED, LLC. THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF D3 LED, LLC. ANY REPRODUCTION OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF D3 LED, LLC IS PROHIBITED.
2. THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF D3 LED, LLC. ANY REPRODUCTION OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF D3 LED, LLC IS PROHIBITED.
3. IF THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY FIELD DIMENSIONS AND DETERMINE SITE CONDITIONS AND TO PROVIDE THE INFORMATION TO DYNAMIC DIGITAL DISPLAYS.
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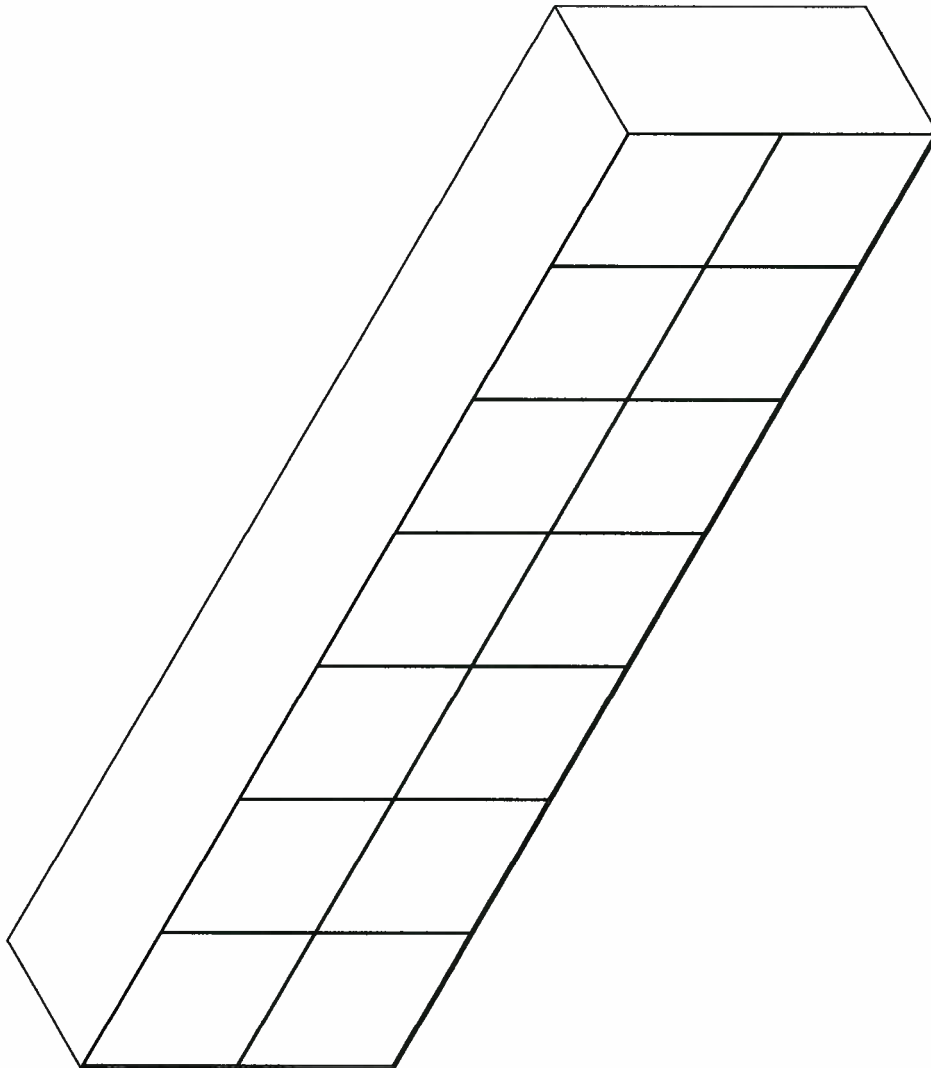
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REV	DESCRIPTION	DATE	END	APP
0.0	INITIAL RELEASE	1/27/14	BNW	

ST ANNES
CHURCH
16MM DISPLAY CONCEPT
COVER

PROJECT NO.	ISSUE / CORRECTION	DATE / TIME	ISSUED BY
2056 - 01.A - DC1 - R0.0			
DESIGN			
LEVEL 1		1:24	0.0

FOR CONCEPTUAL PURPOSES ONLY



FRONT ISO VIEW



11370 SUNRISE PARK DRIVE
RANCHO CORDOVA, CA 95742
916.669.7408 WWW.D3LED.COM

NOTE:

- 1.) THE INFORMATION CONTAINED IN THIS DRAWING IS PROPRIETARY AND CONFIDENTIAL TO D3 LED, LLC. THE DRAWING MAY BE SUBJECT TO CHANGE WITHOUT NOTICE. THE DRAWING IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF D3 LED, LLC. THE INFORMATION CONTAINED HEREIN IS FOR YOUR INFORMATION ONLY AND DOES NOT CONSTITUTE AN OFFER OF ANY PRODUCT OR SERVICE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PROVIDED. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PROVIDED. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PROVIDED.
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- 3.) IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY FIELD CONDITIONS AND BUILDING SITE CONDITIONS AND TO PROVIDE THIS INFORMATION TO DYNAMIC DIGITAL DISPLAYS.
- 4.) SPECIFICATIONS ARE SUBJECT TO CHANGE WITHOUT NOTICE.
- 5.) UNLESS OTHERWISE SPECIFIED:

TOLERANCES:

- MILLIMETERS: ± 0.5
- INCHES: ± 0.015
- FRACTIONALS: 1/16
- ANGLES: ± 0.5°

REV	DESCRIPTION	DATE	BY	CHK
0.0	INITIAL RELEASE	1/27/14	WWW	

ST ANNES

CHURCH
16MM DISPLAY CONCEPT
FRONT ISO VIEW

PROJECT NO.	2056-01A	DATE	1/27/14
DESIGN	DC1	SCALE	1:8
LEVEL	1	SHEET NO.	1.0

FOR CONCEPTUAL PURPOSES ONLY

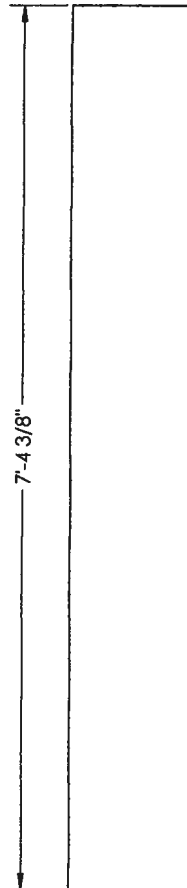
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EACH DISPLAY
2 HIGH x 7 WIDE
14 TOTAL MODULES

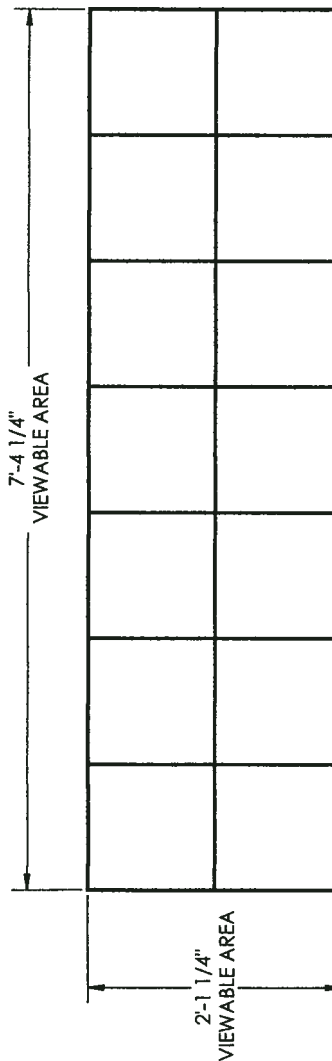
PIXEL MATRIX:
40 HIGH x 140 WIDE

ESTIMATED WEIGHT:
(PER DISPLAY)
220LBS

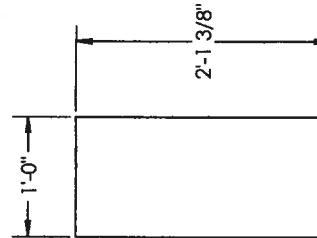
POWER REQUIREMENTS:
(PER DISPLAY)
1.2 KW



TOP VIEW



FRONT VIEW



SIDE VIEW



11370 SUNRISE PARK DRIVE
RANCHO CORDOVA, CA 95742
916.669.7408 WWW.D3LED.COM

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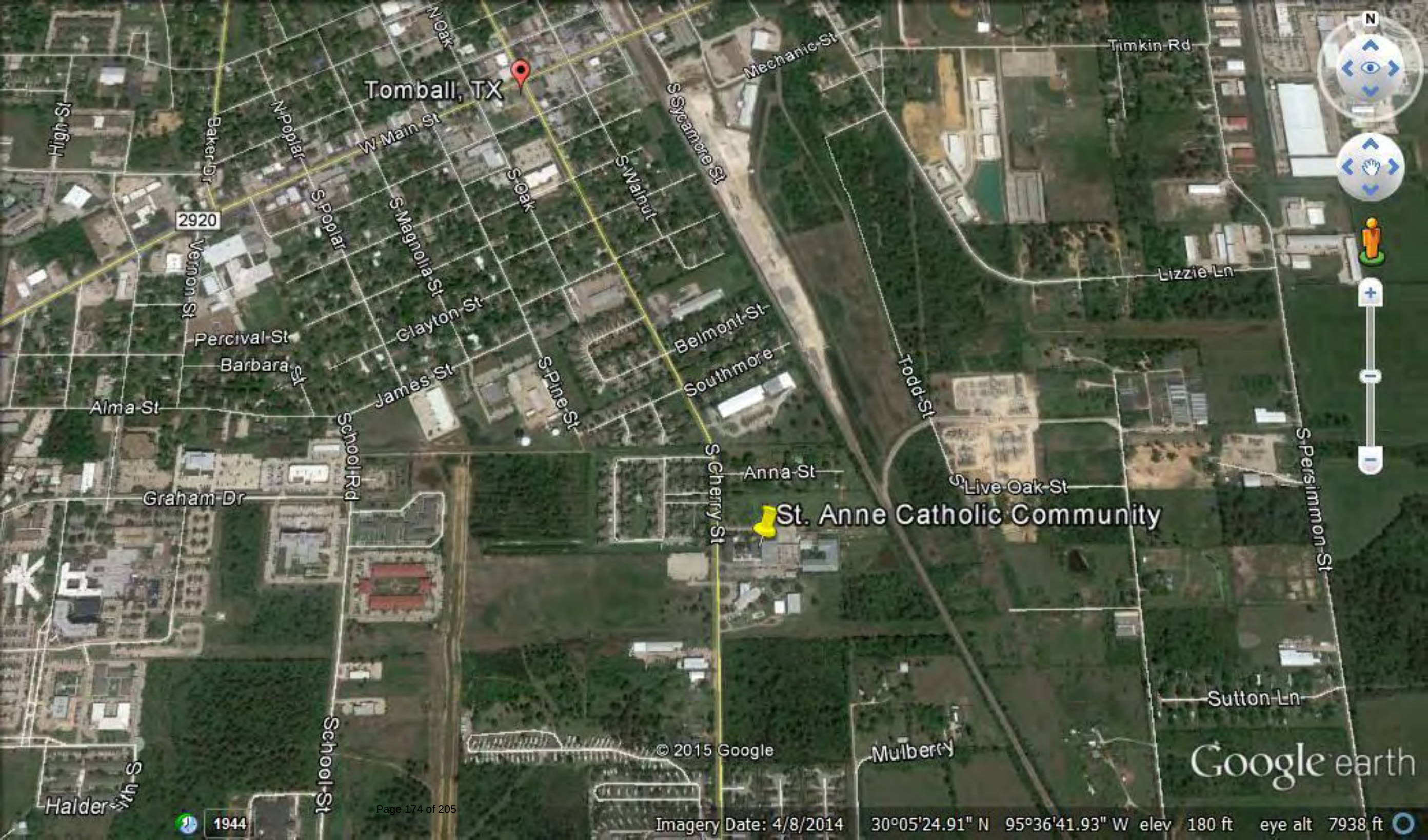
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REV	DESCRIPTION	DATE	BY	APP
0.0	INITIAL RELEASE	12/27/14	BNW	

ST ANNES
CHURCH
16MM DISPLAY CONCEPT
STANDARD 3-VIEW

PROJECT NO.	CLIENT / LOCATION	DRAWING TYPE	DRAWING NO.
2056 - 01.A	DC1 - R0.0		
SECTION	SCALE	SHEET NO.	SHEET TOTAL
LEVEL 1	1:12	2.0	



Tomball, TX

St. Anne Catholic Community

© 2015 Google

Google earth

1944

Page 174 of 205

Imagery Date: 4/8/2014

30°05'24.91" N 95°36'41.93" W elev 180 ft eye alt 7938 ft

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

Approve **LARUE's PLACE**: Being a subdivision of 0.16 acre of land situated in the W. Hurd Survey, Abstract Number 371, Harris County, Texas and a replat of Lots 43 and 44, in Block 69, of the City of Tomball, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County.

Background:

The Planning and Zoning Commission voted to approve LaRue's Place plat with contingencies on Monday, February 9, 2015. The plat has been corrected and is being presented to City Council for approval consideration.

Origination:

Community Development Department

Recommendation:

Approval

Funding:

Party(ies) responsible for placing this item on agenda:

Community Development Department, Engineering Division

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

LaRue's Place

I, GEORGE LARUE, owner hereinafter referred to as Owner of the 0.16 acre tract described in the above and foregoing plat of LARUE'S PLACE, do hereby make and establish said subdivision and development plat of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind myself, my heirs, successors and assigns to warrant and forever defend the title on the land so dedicated.

FURTHER, Owner has dedicated and by these presents does dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, Owner does hereby dedicate to the public a strip of land fifteen (15) feet wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs or other natural drainage courses located in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, Owner do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek or natural drainage way shall hereby restricted to keep such drainage ways and easements clear of fences, buildings, planting and other obstructions to the operations and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement except by means of an approved drainage structure.

WITNESS my hand in the City of Tomball, this 24 day of January, 2015.

By: George Larue
George Larue

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared GEORGE LARUE, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledgment to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 24 day of January, 2015

Anita G. France

Notary Public in and for the State of Texas

Print name: Anita G. France

My Commission expires: 04-26-17

I, David E. King, am registered under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature and other points of reference have been marked with iron (or other suitable permanent metal) pipes or rods have an outside diameter of not less than three quarter (3/4) inch and a length of not less than three (3) feet.

David E. King
David E. King
Registered Professional Land Surveyor
Texas Registration No. 4503



This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of LARUE'S PLACE in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2015.

By: _____
Barbara Tague, Chairman

By: _____
Darrell Roquemore, Vice Chairman

This is to certify that the City accepts the Planning and Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas and the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2015.

By: _____
Gretchen Fagan, Mayor

By: _____
Doris Speer, City Secretary

We, the City Manager and the City Engineer for the City of Tomball, do hereby certify with City of Tomball ordinance.

George Shackelford, City Manager

Carl Lakatos, C.E.
Carl Lakatos, C.E.
City Engineer

I, Stan Stanart, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 2015, at _____ o'clock and duly recorded on _____, 2015 at _____ o'clock, and its Film Code Number _____ of the Map Records of Harris County for said county.

Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
County Clerk
of Harris County, Texas

BY: _____
Deputy

LEGEND

These standard symbols will be found in the drawing.

- FOUND MONUMENT
- FOUND 5/8" I.R. W/CAP

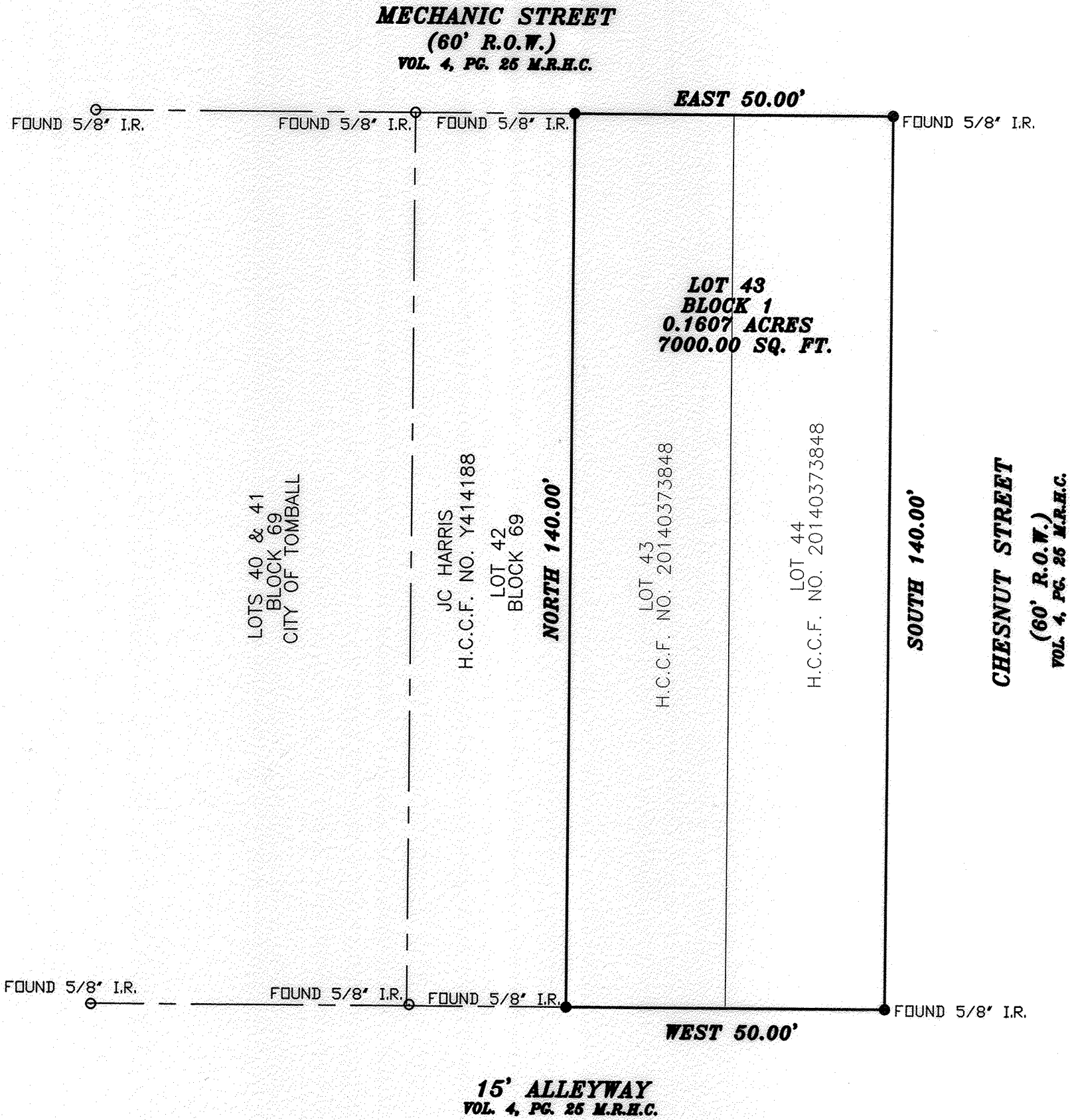
M.R.H.C. = MAP RECORDS OF HARRIS COUNTY.
D.R.H.C. = DEED RECORDS OF HARRIS COUNTY.
R.P.R.H.C.T. = REAL PROPERTY RECORDS HARRIS COUNTY TEXAS
C.F. NO. = CLERKS FILE NUMBER

GENERAL NOTES:

1. All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
2. All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
3. No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
4. This plat does not attempt to remove any valid covenants or restrictions.
5. The building lines are not shown on this plat, contact the City of Tomball for any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
6. According to FEMA Firm Panel No. 48201C02230L (Effective Date June 18, 2007), this property is in Zone "X" and does not appear to be in the 1% Annual Chance Flood Plain.
7. Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball nor any other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.
8. A City Planning Letter by Fidelity National Title Company Effective Date January 11, 2015, GF No. 5225001504 was used in connection with this Plat.



VICINITY MAP (N.T.S.)
KEY MAP PAGE 288H



REPLAT

LARUE'S PLACE

1 LOT, 1 BLOCK

Being a subdivision of 0.16 acre of land situated in the W. Hurd Survey, Abstract Number 371, Harris County, Texas and being a replat of Lots 43 and 44, in Block 69, of the City of Tomball, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County, Texas.

FEBRUARY, 2015

OWNER:
GEORGE LARUE
Tomball, Texas 77375
Phone-713-694-0341

SURVEYOR:
David E. King, Sr.
3411 Keygate Drive
Spring, Texas 77388
Office: 281-350-8003
FAX: 281-350-0118
EMAIL WWW.INFO@KINGSLANDSURVEYING.COM

Regular City Council

Agenda Item

Meeting Date: March 2, 2015

Data Sheet

Topic:

Approve Fire Department Request to Apply for a new FEMA SAFER Grant and Authorize the Mayor to Execute the Required Support Letter to be Included in the Application Package

Background:

The Tomball Fire Department has the opportunity to apply for another SAFER Grant. One of the requirements of the application is a letter from the governing body supporting the application and ensuring that no existing firefighter positions will be eliminated by the grant funded positions.

The Department presently staffs 5 full-time positions on each of its three 24 hour shifts. Three positions are assigned to Station 1 on the engine and two positions are assigned to Station 2 on the 75 foot ladder truck. The remaining three positions, one at Station 1 and two at Station 2, are filled by part-time paid personnel during the day and volunteers at night.

The twelve additional positions will be allocated three to Station 2 to bring its full-time staffing to three per shift and the remaining nine to staff another engine company in the new west side station being built by Harris County ESD #15. The west side station will provide coverage to the areas of the City from Park Road to Telge north and south of FM 2920.

Council is asked to approve the application for a new SAFER grant and authorize the Mayor to execute the required support letter to be included in the application package.

Origination:

Fire Department

Recommendation:

Staff recommends approval

Funding:

Party(ies) responsible for placing this item on agenda:

Randy Parr

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Additional Narrative

Financial Details

Financial Summary and Post Grant Cost Allocation

COT Council Support Letter

TFD Response Map w/ City Limits noted

History and Background of the City's Relationship with Harris County ESD #15

Prior to 2005, the Tomball Fire Department routinely responded to calls outside the City Limits into an area known as Harris County Fire Protection District #31. This area encompassed approximately 30 square miles east, west and south of the City. It extended south from FM 2920 along Telge Road on the west to Grant Road, east along Grant to Shaw, north on Shaw to Boudreaux, east along Boudreaux to SH 249, north on SH 249 to Willow Creek, followed the creekway east to FM 2920 at Dowdell, north on Dowdell to Tuwa, north on Tuwa to its deadend, north along an imaginary line to the Harris/Montgomery County line at Spring Creek, west along the creekway to the western edge of Spring Creek Park and then south back to the intersection of FM 2920 and Telge. During the creation of Harris County ESD #15, a portion of the HCFPD 31 east of FM 2978 and north of Kuykendahl-Hufsmith was lost to an existing ESD that is served by the Spring Fire Department. Payment for the services provided to this area was in the form of a \$7,500 annual payment from Harris County.

Harris County ESD #15 was formed in 2005 to provide funding to the City of Tomball to continue to provide fire and rescue services to the area. The City Administration felt that was insufficient compensation for those services and notified the Fire Department that it was not renewing the HCFPD 31 contract. Some discussions were held and, as an alternative, it was decided to allow the affected area outside the City to meet with Harris County officials and to vote to create an emergency services district. The new district entered into a service contract with the City and ESD #15 provided a \$30,000 payment its first year of existence, four times what the County had previously paid. The value of the tax base of ESD #15 has grown from its initial 2005 amount of approximately \$200,000,000 to approximately \$615,000,000 in 2014. The service contract payment amounts have grown from \$30,000 in 2006 to \$87,500 in 2015. The relationship between the City and ESD #15 is excellent and has grown from that of a purely contractual nature to more of a partnership as there are significant advantages and opportunities to improve services to both entities.

ESD #15 is poised for significant additional growth with numerous farms and family plots giving way to subdivisions with home prices above \$200,000 each under development. There is significant commercial development along the major roadways within the district with several buildings being constructed or planned between Shaw and Telge along Boudreaux and a \$35,000,000 apartment project under construction east of Mahaffey on FM 2920. The construction of the Grand Parkway through ESD #15 will create more significant development opportunities.

Proposed Project

The Tomball Fire Department (TFD) is seeking Council approval to apply for another DHS/FEMA Staffing for Adequate Fire and Emergency Response (SAFER) Grant which will provide funding for three additional full-time shift firefighters at Station 2 and provide nine full-time positions at Station 5. The Fire Department is seeking these positions to; at Station 2, bring the full-time positions up to three per shift allowing us to more easily maintain the minimum staffing level of the station, and second, to provide an appropriate number of firefighters at Station 5 to be at the minimum staffing level.

Station 5's location will provide fire protection and rescue services to the west side of the City from Park Road to Telge both north and south of FM 2920. The station location will also provide access to the Grand Parkway and much quicker access to the east side of the City. Construction of the station is being handled by Harris County ESD #15 which contracts with the City of Tomball to provide fire and rescue services to their jurisdiction.

The TFD staffing model requires a minimum of three positions per apparatus with four being optimal. The fourth riding position is filled by a part-time position during the day and a volunteer position at night. We have been generally successful in achieving the minimum staffing at both stations

during the past year but the third full-time position at Station 2 would allow us to meet the desired goal of four firefighters on both first out trucks. Meeting these nationally developed standards increases the safety of our responders and dramatically improves our service delivery capability to our customers.

The three positions per shift at Station 5 will allow the Department to assemble an effective firefighting force of 10 personnel within 10 minutes 80% of the time. This is the National Fire Protection Association (NFPA) 1720 deployment standard for agencies such as ours that respond with career, part-time paid and volunteer components and was developed to provide a reasonably safe working environment for our firefighters.

The SAFER Grant will provide 100% of the funding for compensation and benefits for the 12 positions for a two year period. As the Department maintains an adequate supply of turnout gear and other equipment that is typically issued to the firefighters, there will be a negligible impact, primarily for certification fees of \$85 per person, to the Department's budget.

At the end of the grant period, as indicated in the attached spreadsheet, costs of continuing to fund the positions will be allocated between the City and ESD #15 per a new contract between the parties. The new contract will be in place prior to acceptance of the grant.

Tomball Fire Department
SAFER Grant Application - Fiscal 2014

Proposed Positions	Number	Rate per Schedule	Rate per Hour	Number of Hours	Overtime per Hour	Number of Hours	Total
Officers	3	53,927.00	17.89	2,756	26.84	164	161,117.34
Driver/Operator	3	51,328.00	17.03	2,756	25.55	164	153,372.18
Firefighters	6	45,367.00	15.05	2,756	22.58	164	271,080.60

Total annual increase in compensation

585,570.12

Payroll burden based on compensation

FICA Taxes	7.65%						44,796.11
Retirement	14.00%						81,979.82
State Unemployment							-
Disability Insurance	12	240.00					2,880.00
Health Insurance Cost	12	12,500.00					150,000.00
IPS	12	360.00					4,320.00
	12						
Life Insurance Cost	12	150.00					1,800.00
Workers Compensation Cost	12	646.00					7,752.00
							<u>293,527.93</u>

Total Salary and Benefits

879,098.05

Allocation of costs after grant period

City of Tomball Station 2	3						<u>219,774.51</u>
---------------------------	---	--	--	--	--	--	-------------------

Balance to divide 50/50

659,323.54

ESD #15 share

329,661.77

City of Tomball share

329,661.77

Total City of Tomball costs

549,436.28

Tomball Fire Department
SAFER Grant Application - Fiscal 2014

SUMMARY INFORMATION

Proposed Positions	Number	Total	City Station 2	ESD #15 Station 5
Positions	12		3	9
Projected compensation		<u>585,600.00</u>		
Total annual increase in compensation		<u>585,600.00</u>		
Payroll burden based on compensation		<u>293,500.00</u>		
		<u>293,500.00</u>		
Total Salary and Benefits		879,100.00		
Allocation of costs after grant period				
City of Tomball Station 2	3	219,775.00	219,775.00	
Balance to divide 50/50	9	<u>659,325.00</u>	<u>329,662.50</u>	<u>329,662.50</u>
Total costs		879,100.00	549,437.50	329,662.50

March 3, 2015

Catherine Patterson, Branch Chief
Assistance to Firefighters Grants Branch
DHS/FEMA
800 K Street NW Mailstop 3620
Washington DC 20472-3620

Re: City of Tomball SAFER Grant Application

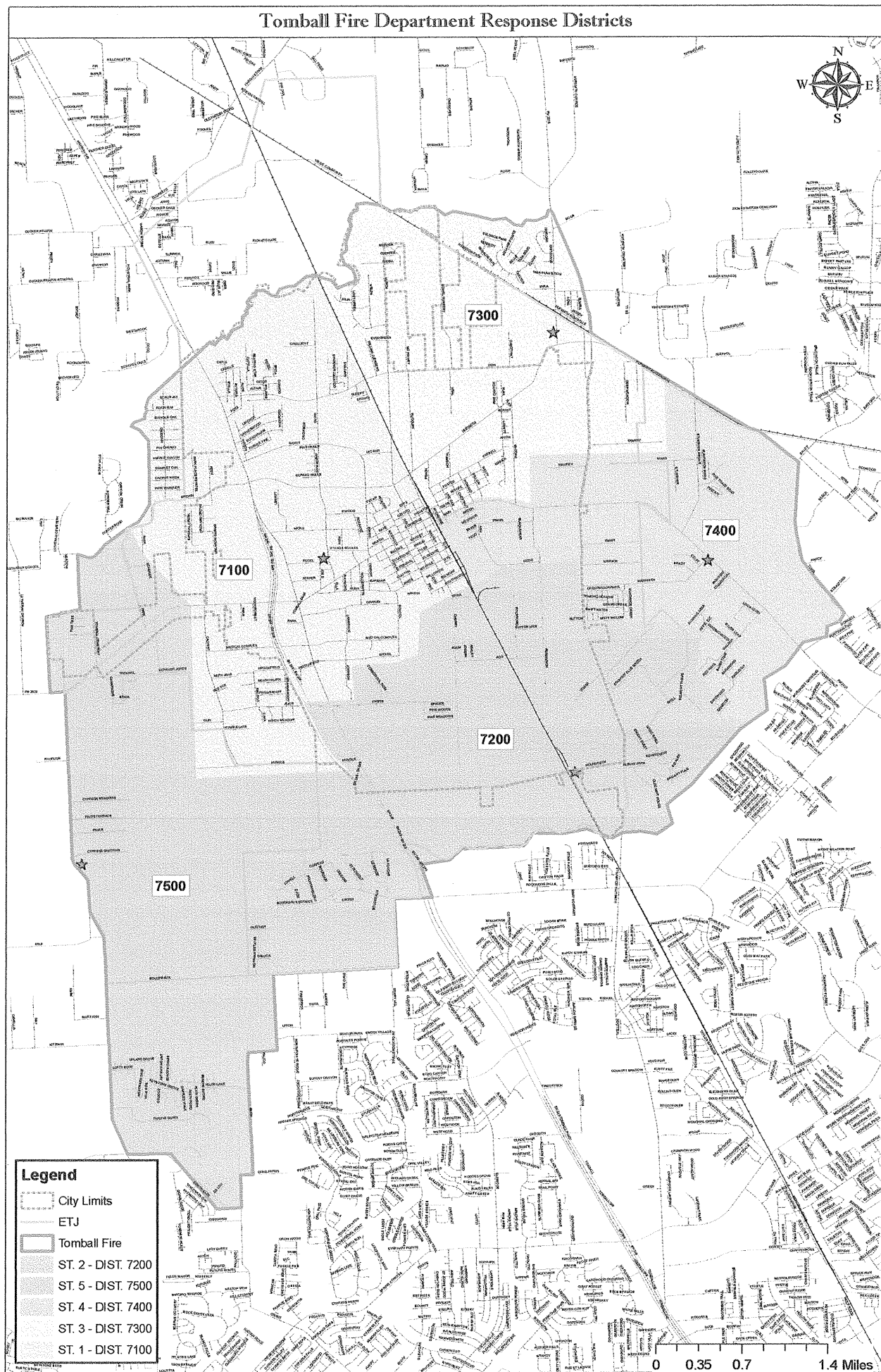
Dear Ms. Patterson:

The City of Tomball City Council is in support of the SAFER Grant Application being submitted to DHS/FEMA by the City of Tomball Fire Department. The City of Tomball has a clear understanding of its obligations and is committed to maintaining the current staffing levels of the Fire Department during the period of performance of the grant. The City of Tomball Fire Department will not incur any layoffs of current Fire Department employees during the performance period of the SAFER Grant.

Sincerely,

Gretchen Fagan, Mayor

Tomball Fire Department Response Districts



Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Digital Billboard Presentation by Clear Channel Outdoor, with Council Discussion and Possible Action regarding Changeable Electronic Variable Message Signs (CEVMS) and Proposed Amendments to the Code of Ordinances

Background:

Lee Vela, Clear Channel Outdoor approached city staff inquiring the ability to install digital billboards inside the city limits of Tomball. They understand that the city ordinance would have to be amended in order for this type sign to be located in the city.

Mr. Vela would like to make a presentation to Council to promote digital billboards.

Origination:

Lee Vela, Clear Channel Outdoor

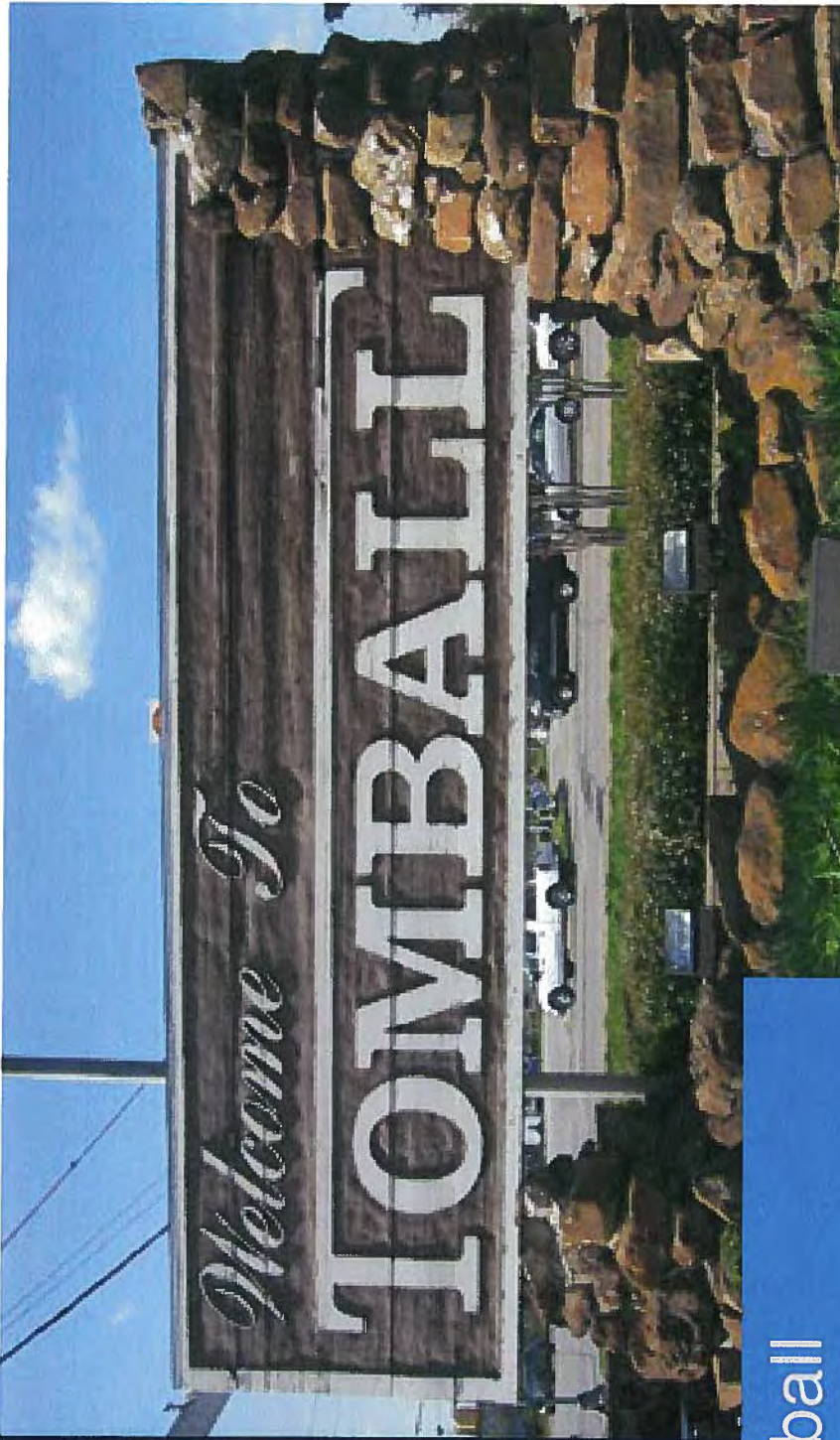
Recommendation:**Funding:****Party(ies) responsible for placing this item on agenda:**

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Digital Proposal Presentation



City of Tomball Digital Proposal

Traditional Vinyl Billboard



Digital Billboard

Static messages show once every 8 seconds.

Units are programmed remotely (web based).

**No Movement.
No Motion.
No Video.**



TXDOT Electronic/Digital Rules

- Cities decide if electronic displays are right for their community.
- Electronic units cannot be placed on rural roads outside a city's extraterritorial jurisdiction.
- Electronic messages are required to remain static for at least 8 seconds.
- Sign owners coordinate with local officials to display emergency information such as *Amber Alerts*.
- Only state legal conforming structures are allowed to be converted to electronic units.
- Flashing, blinking or moving lights are not allowed.
- Lighting restrictions do not allow the sign to be so bright as to endanger the traveling public.

The Gulf Coast Emergency Messaging Network

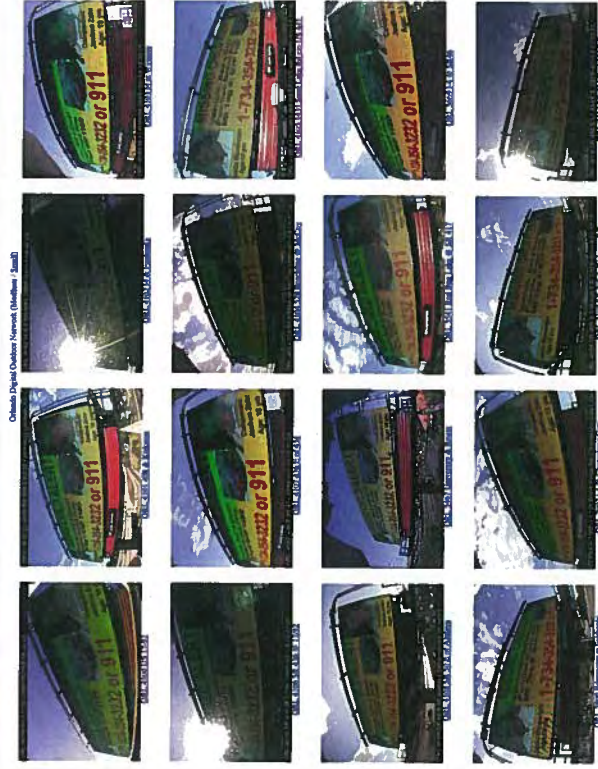
Instant Communications



- The Gulf Coast of Texas is highly susceptible to tropical storms and hurricanes.
- Since 1980, 17 major storms have ravaged the region.
- Communications with the public during an emergency, especially the traveling public is essential.
- The network of digital units will provide **instant changeable messaging** to the public.

Network Protocol

- Clear Channel is building and maintaining these units at **no cost** to any municipality or other governmental agency.
- Clear Channel provides time on units for periodic preparedness messages.
- During a major emergency, messages will be coordinated with area county **emergency management coordinators.**
- Emergency management coordinators have adopted the protocols for when and what is communicated during a regional crisis.



8169/8170-1-10 © Oates



Judge Ed Emmett's endorsement of Emergency Messaging Network

 Clear Channel Outdoor



Ed Emmett
COUNTY JUDGE

June 13, 2011

Ms. Donna Baker
President
Clear Channel Outdoor
12852 Westheimer Rd.
Houston, TX 77077

Dear Ms. Baker:

Communicating with the citizens of Harris County is critical in the event of an emergency. For years my office has worked with Clear Channel Outdoor to help get our message across about preparing for the hurricane season.

The advent of digital billboards presents an even better opportunity to work together.

The creation of an Emergency Messaging Network using the digital billboards to communicate with the public instantly will be vital to the safety of our community. As we all know, the conditions of storms change rapidly. Therefore, having the ability to utilize changeable messages quickly will provide much needed information to the traveling public.

We appreciate Clear Channel's continued assistance with these important public safety efforts and we look forward to using this new technology to provide up-to-date information that will be beneficial to the safety and the well-being of our citizens. I would welcome any thoughts you have regarding the best approach to take.

Sincerely,
Ed Emmett
Ed Emmett
Harris County Judge

The system tested.



 **Clear Channel** Outdoor

Digital Billboards and Public Messages

2007 Maroon Mazda
Lic. # CCS2279
Isaiah Corson
Male | Age 2 | Black hair
Any info call: 254-298-5500

**AMBER™
ALERT**

 **SUSPECT**

 **MISSING**

STOP HOUSTON GANGS

FIREARMS VIOLATION: CARLOS ROMERO
HEIGHT: 5'5" WEIGHT: 180 POUNDS
Submit a tip: www.stophoustongangs.org



Local Public Service Announcements

2013
HOLIDAY
MAGIC
 LEAGUE CITY

HOLIDAY IN THE PARK
DECEMBER 6 - DECEMBER 8, 2013
BOAT PARADE AND FIREWORKS SHOW
DECEMBER 14, 2013

NOVEMBER 23 - DECEMBER 22 · LEAGUECITYHOLIDAYMAGIC.COM

A JOB LIKE NO OTHER
Police Entry Level Exam June 20th
936-522-3150
www.CityofConroe.org




JOSH ABBOTT BAND
 Friday, Feb. 8, 2013

DUSTIN LYNCH
 special guest
 Saturday, Feb. 9, 2013

KEVIN FOWLER
 Saturday, Feb. 9, 2013

RODEO
 BBQ COOK-OFF
 Inspirity

BBQ COOK-OFF
 February 1 & 2, 2013
 LIVE ENTERTAINMENT
 EACH NIGHT OF THE BBQ ON THE RED LIGHT AT 11:15

Jason Cassidy Koby Gray
 Inspirity Star BBQ







Proposed Billboard Relocation/Digital Conversion

- Clear Channel proposes to remove an existing billboard sign structure and erect a new billboard sign structure with digital capability. This new sign would provide significant public benefit to the city.
- CCO would provide space to the City, within one slot of an eight (8) message loop, for five (5) separate two (2) week periods per year, on each of the new digital sign faces. Additional space on the digital sign faces will be provided on a space available basis.
- The sign ordinance would need to be modified to become current with modern signage technology.
- The City and CCO would enter into an agreement.
- The new billboard sign structure would be subject to the City's Specific Use permit process.
- Clear Channel will display emergency messaging on the digital billboard(s) free of charge to the City.

Questions

LEE VELA

Clear Channel Outdoor – Houston
12852 Westheimer Road
Houston, TX 77077
P 281.588.4222
leevela@clearchannel.com



Thank you!

 Clear Channel Outdoor

Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

Discussion regarding Licensing Requirements for Mobile Vendors

Background:

This item has been placed on the agenda for discussion purposes at the request of Councilmembers Townsend and Stoll.

Under the current code of ordinances, the City has licensed several mobile vendors who have become long-term 'semi-mobile' vendors along Main Street. One vendor, in the HEB parking lot, was essentially grandfathered in when the last amendments were adopted for Chapter 32. Peddlers and Solicitors. City staff seeks direction from City Council regarding possible amendments to Chapter 32.

Photos of these vendors are attached for Council review.

Origination:

Councilmembers Townsend and Stoll

Recommendation:

N/A

Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Mobile Vendor - Cindy's Tacos

Mobile Vendor - Elotas Asados

Mobile Vendor - Snow Man Snow Cone



GASOLINE

SINDY TACOS READY TO GO

OPEN

STOP

KLEIN

TURNER AS HOME

JUSTICE, PEACE



ELOTES
ASADOS

LEGACY
BEAUTY ACADEMY
COSMETOLOGY
MANICURING - ESTHETICIAN
281-351-8812
FULL TIME & PART TIME
Clases en Español
ENROLL NOW!

SAFARI
TAN
281-290-7000

JENNY NAILS
281-516-7871

NPK-289

TEXAS
FCP-5666

COURVELLE
HAPPY TOWN



Regular City Council Agenda Item Data Sheet

Meeting Date: March 2, 2015

Topic:

The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Private Consultation with Attorney in Closed Meeting regarding a Matter that the Duty of the Attorney Requires be Held in Closed Session

Background:**Origination:**

City Attorney

Recommendation:

N/A

Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	